

**Planning & Zoning Commission
Milton Library – 121 Union St
January 15, 2014 – 6:00 pm**

**Transcriptionist: Helene Rodgville
[Minutes are not Verbatim]**

1. Call to order

2. Roll call of members

Virginia Weeks	Present
Lynn Ekelund	Present
Linda Edelen	Present
Don Mazzeo	Present
Mark Quigley	Present (arrived late)
Barry Goodinson	Absent
Tim Nicholson	Absent

3. Additions/Corrections to agenda

Don Mazzeo: Do we have any additions or corrections to the agenda as it is published? Hearing none, I'll ask a motion to accept the agenda.

4. Approval of agenda

Lynn Ekelund: So moved.

Virginia Weeks: Second.

Don Mazzeo: All in favor say aye. Opposed. Motion carried.

5. Business – Discussion and possible vote on the following item:

a. Ordinance to amend Chapter 220 of the Town Code, entitled “Zoning”, relating to the reclassifying of home occupations from special permitted uses to permitted uses. This item was referred to the Commission by Town Council.

Don Mazzeo: At this point, I will ask either Solicitor or Town Project Coordinator to jump right in and let us know what's going on.

Robin Davis: Well, I'll give you a little history. This came about due to more or less two business license applications that the Town received back in September/October timeframe, maybe a little earlier in 2013. One of them was a lady who wanted to operate a tutoring piano lessons; teach piano lessons from her home. The other was an engineering firm, a small engineering firm. Speaking to him a couple of times, he changed from no employee's to yes, yes big office/little office, I'm moving/I'm not moving type deal, but currently those two by preliminarily looking and talking to the applicant's would have gone through a home occupation, which is classified as a Special Permitted Use in our Code. This requires businesses to go through the Planning and Zoning phase, preliminary, final, public hearing, things like that. When I looked at that and looked at some of the definitions that we have of home occupations, I saw a big wide variety of businesses that could fall under a home

occupation. My concern was, the lady that wanted to do the tutoring, or the piano lessons, was going to have to go through the same process as somebody who wanted to do an in-home daycare. My personal opinion is they fall under different categories. I understand the home daycare is going to cause some traffic; you worry about concerns about hours; are they going to be there late at night. The tutoring, I don't know how that's a lot of traffic, but I understand that people do come to the home, but I just saw that there was a big disparity in what we had under home occupations. I also had received a list from the Vice Mayor of businesses that were located in Town that had State licenses, that did not have Town of Milton business licenses. The concern was we're losing revenue. That is correct, so briefly looking at those, I found the same issue. Some of these were small type businesses, somewhat in the consulting type business, where they might not even do anything within the Town. Most of their business was outside of Town, but they just had an office, or a mailing address out of their home. Some of them were a little bit more detailed. Again, we fall into the same thing. We're going to make some of these go through the same process as we would something that would probably be an impact to the residential area. I brought this to the Council to see what they wanted to do; if they wanted to maybe work on reworking our home occupations, moving them from either Special Permitted Uses to Permitted Use or Permitted Accessory Uses. I was tasked with getting together some information from the other towns and all these details that were passed on to you and after the third Council Meeting it was voted to refer this to Planning and Zoning to get the Commission's input on what they thought would be the best to do on whether we wanted to do nothing and again, as of right now if we do nothing, those 70 some businesses on that list of last year, would be called, notified and they would have to run through the Planning and Zoning process. If that Ordinance goes through, then Special Permitted Use would then turn... but they would have to go through a public hearing process and things like that. I just didn't think that some of them needed to go there. I'm not saying that some of these don't require a more in-depth review. Some of them, I think, could possibly be done administratively.

Don Mazzeo: As a question to Seth, then. Are we being charged to recommend that there are going to be, should be, might be, or not to be any changes and if we so decide tonight that there should be changes, are we then charged with identifying those changes and/or modifications that are going to be required to implement those changes?

Seth Thompson: It is interesting, because this is a slightly different assignment than we normally get when it comes to amending the Zoning Code. Normally there's a more specific Ordinance that you are called upon to write your Advisory Report, whether it's in favor or whether it's against. Here, I view this as the question is... I think Robin laid it out well. We might do nothing. Maybe that's what your recommendation is, that in essence, nothing happens, in which case, by the way if Council decides to try and pass an Ordinance amending the Code, then they'd have to have the four-fifths majority, because your recommendation would be to not change it.

Don Mazzeo: Right.

Seth Thompson: We get into a little bit more of a gray area if you recommend certain changes and they decide to tweak those a little bit. It's just not as clear then in terms of whether the super-majority requirement would apply. The problem is, this is a fairly labor-intensive item and I guess Council felt they didn't have the requisite knowledge to draw the line. When I say draw the line, again, I'm just going off of the comments that they made and I think Robin's correct. Some of these businesses, I think it's very easy for us to say yes, there's really not that

much of an impact on the neighbor's, for instance; if a home occupation includes I have a small room in my house that I use for art or for legal research and writing. I'm not impacting my neighbor's in the least there, so it's somewhat of a discouraging proposition for me to go through this entire process and pay money to do so; and I think the problem with that is it then just encourages people not to file for business license. But drawing that line, we need to look at where the Code currently... really what the Code currently looks to as far as what it allows and what it doesn't allow. As far as the specific task, my impression from Council is that they would like you guys to make a recommendation on an Ordinance that updates this and if your recommendation is let's leave it the way it is, they're going to have to live with that, as well.

Don Mazzeo: Okay, I think I understand. Do our Commission members understand the task that we've been given?

Seth Thompson: It might be easier to delve in to what we currently have. I'm of course going to answer any questions and I suspect there are going to be a number and that's fine, but the way our Code currently... Robin's exactly right that it's currently a Special Permitted Use. It's interesting that in the Code at Section 220-51, we lay out home occupations and these specific requirements in terms of no more than 25% of the total floor area must be carried on wholly within the enclosed walls of the unit or accessory building. There are those requirements, but you also need to remember that we have defined home occupation in Section 220-06. So really it's almost as if there are two sets of requirements. At 220-06 we talk about... and it is fairly broad language, but it talks about there being some limitations. Any occupation, profession, enterprise, activity and it says by one or more members of a family on the premises, so the take on that is you can't have employees or I guess if they're employees, they need to be family members.

Virginia Weeks: We had this come up in the past and it was they were consultants, they weren't employees; or they were contractors. So I think we need to _____.

Seth Thompson: You're right and I used that term a little too broadly, I guess, but the way it's written in the definition there needs to be this familial relationship, whether they're independent contractors or W-2 employees. But it also says that no commodity is to be stored or sold, which is interesting because in 220-51 it talks about the fact that...

Don Mazzeo: May be produced by members of the family residing at the residence. So therefore you are selling retail, if you will.

Seth Thompson: And it says no stock, merchandise or equipment or displays of any kind shall be visible from the outside, but that seems to imply that you can have them inside the house; they just can't be visible. So it's difficult having the two. I think there are elements of the definitions section and then 220-51; I can see them as easily conflicting in a given situation. But that's kind of how we have it. I guess from a societal standpoint, it seems to me that home-based businesses are kind of a pretty common tax write-off these days. They used to be giant red flags for the IRS. I don't know if that's still the case anymore, but it seems like people try and do that more often and just with Internet activity and Wi-Fi and speedy home Internet, I think more people do work from home, so they can set it up so they get the tax write-off with having a home office, that's great. I'm not so sure your Code reflects that change, where a lot of people do work from home.

Don Mazzeo: Let me ask Robin a question, based on your statement just now. If someone's working from home, and they're an employee of another corporation someplace, another entity, if they're working from home does that constitute a home occupation?

Robin Davis: I would say not, because it's not their business. It would be...

Don Mazzeo: By definition does it state that in our...

Seth Thompson: See our definition is broad enough; nobody would think of that, but just looking through it, it says any occupation, profession, enterprise, or activity conducted on the premises.

Don Mazzeo: Activity, it's that...

Seth Thompson: On the premises. That's very broad. It doesn't say that that person owns the business and that's the sole location of the business. There's an argument, again, me doing legal research from my house, would fall under this.

Virginia Weeks: Could you we change that to any business that requires a State license?

Seth Thompson: We certainly can. I mean that's often...

Virginia Weeks: And that I think would get us around this, somebody who works for a company in Philadelphia and is doing some computer work at home...

Don Mazzeo: Excellent opportunity for a change to be implemented. Thank you, Virginia Weeks.

Virginia Weeks: Would that work?

Don Mazzeo: Yes.

Seth Thompson: It definitely would and I think that makes sense and then the question becomes what type of business. So that rules out people just kind of doing little odds and ends from home.

Linda Edelen: A teacher grading papers?

Seth Thompson: Right, I think that eliminates it, because they wouldn't be required to get a State license, so that is helpful; that's very helpful actually, in terms of getting rid of the things that nobody would consider as requiring a license in just a general, common sense perspective. Then the question becomes, do we automatically allow some of these potential uses; the artist, the piano teacher, the barber? Where do you draw the line?

Don Mazzeo: Well I would indicate that if people have read through the City of Lewes Ordinances on home-based businesses, I think they've done an excellent job of identifying more specifically then what our current Zoning Code indicates and to your point specifically, that was just brought up, where they're saying Permitted Uses are going to be for offices, for professionals, but not limited to blah, blah, blah. It does have things in there such as a barber, with one chair or less; workrooms for dressmakers; repair services, as long as they're not outside; and then they have this extremely good chart.

Virginia Weeks: I would like to make mention that back in the era of Don Post, a chart similar to that for the Town of Milton was prepared and given to the Town and they did nothing with it. So it should be on file.

Don Mazzeo: This may be the opportunity to correct that condition.

Virginia Weeks: It should be on file.

Don Mazzeo: Or, if it's on file, I don't know where it would be. Town Hall has it someplace, at the time that...

Virginia Weeks: I would like to before we begin, put forth a thought that I have and we can get rid of it then and so on. In my view, I think that we should have two categories for home occupation and I think the first category should be a Permitted Use, but it should have certain requirements and restrictions. For example, one of the things I'm concerned about if we allowed all this stuff to just occur, is the streets of Milton are very narrow. The streets of Cannery Village are very narrow and if a lot of people start doing business in their home and they have to use street parking, they don't have a parking space on their property, for the client

who is coming 1, 2, 3, that's okay; but if you get 10 or 12 in a small area, it could be bad. I know, personally, that on Union Street if you have a car parked on Union Street, going around it is difficult and we know that going around it for fire engines is difficult and for ambulances and so in one of the things where it would just be Permitted Use, I think we should have a parking requirement that there be an additional parking space to whatever else is required by the use on that lot for the person who comes to use the business. For example, if somebody is giving a piano lesson that the person who comes for those lessons, has a place to park his car, rather than parking it always on the street, to make it a Permitted Use.

Don Mazzeo: I would even take it one step further. Let's stay with the piano lesson individual applicant potential. Your point, I think, is very well taken. One space should be available, if that's the type that we're looking for; but in the case of the piano teacher, she has an appointment at 1:00, and appointment at 3:00; well the 1:00 person is going to get picked up at about 3:00 and the 3:00 person is going to be there a little bit earlier; so now you already have two spaces taken up.

Virginia Weeks: That you can...

Don Mazzeo: My point is to say just one, is probably in conflict of what we're trying to accomplish.

Virginia Weeks: That's something that's certainly open for discussion and worthy of thought.

Don Mazzeo: Or we can throw it out there and say make it three and let Council decide what they want to do.

Linda Edelen: I deal on more of a casual level than you're both speaking. I know about piano teachers. Nobody's there. The parent drives up, the kid jumps out of the car and the parent's take off because it's an hour that I can go up to the Food Lion and do my shopping. They come back and they pick up the kid. If we structure it that way, require something that really doesn't need anything, that's not helpful to our community, I don't think.

Virginia Weeks: We're only talking about piano teacher's there, but you could be talking about an engineering firm. You could be talking about bakeries. You could be talking about dog grooming. You could be talking about a whole bunch of things.

Linda Edelen: I don't know if that's right, because I don't know if they fall under home occupation.

Don Mazzeo: Well that's why we're here this evening. One of the reasons we're here this evening is to identify, or what we feel, as the Committee feels, would be recommendation to Council for them to go forward.

Linda Edelen: To permit those uses, without...

Don Mazzeo: They wouldn't even need to go through Council. They would go right to Mr. Davis sitting over there and he would say yes or no.

Linda Edelen: And he says _____.

Virginia Weeks: But at that point, do you want to go through and have to list every single type of occupation we can think of, or do you want to have a set of criteria for it to be permitted, where they can flow right through and if they can't meet certain criteria, then they have to go for a special use? For example, a dentist's office or a doctor's office, which in our Ordinances is permitted. You're going to have the doctor, you're going to have the patient, you're probably going to have some sort of healthcare person coming. Really, you cannot clog the streets of Milton with a bunch of people.

Linda Edelen: And I agree that there needs to be some oversight, but doctor's have historically been the home occupation, lawyers, dentist, architects. We're moving beyond that with the

technology, etc. that we have. Many more people. But doctor's, my impression of the medical profession is, they're not operating out of their homes anymore.

Don Mazzeo: But they can by Permitted Use.

Seth Thompson: Right, they can in our code.

Don Mazzeo: In our current code, it's a Permitted Use.

Seth Thompson: Right. It's not a... It falls under home occupation.

Virginia Weeks: It's a special use.

Seth Thompson: I understand Linda's point. That's such a regulated business, I mean that's what it is, but it's also a regulated practice because of the all the health concerns and rightfully so. You don't see a lot of doctor's with home offices these days. I think that would be...

Linda Edelen: I know they're not making house calls.

Virginia Weeks: But they're also not alone, they have employee's, no matter who the doctor is, he's going to have employee's.

Linda Edelen: Of course and they have to, I understand. It used to be their wife, their daughter.

Virginia Weeks: And with doctor's another thing that I'm concerned about is medical trash these days. It's not like it was year's ago where all the blood and all the needles went to the local dump.

Lynn Ekelund: Is there any way we can distinguish between what I look at as a home occupation, which would be the piano teacher, or a home professional office, which would be the doctor, the psychiatrist, the physical therapist. I can see that there's a clear line there, which might address parking restrictions and that sort of thing?

Seth Thompson: I think we can do that. It's interesting, because I think your current Ordinance has that affect, by saying it could only be 25% of the unit, so that just eliminates a lot of those offices, because there isn't enough physical space. Take a 1,500 square foot home, for easy numbers, 1,600 square foot home, you only have 400 square foot for the office.

Don Mazzeo: That's a 20X20' room.

Seth Thompson: You have a room, so you're not going to be running... I guess you can bake in your kitchen. The problem is that then the kitchen factors into that calculation.

Virginia Weeks: And nobody's going to regulate that.

Seth Thompson: It is difficult to regulate the inside of a building.

Virginia Weeks: Nobody's going to regulate that.

Don Mazzeo: Robin, when you question an applicant who's coming in for a home-based business, do you ask specifically, do you use 25% or less of your building for your business? Is that one of your questions?

Robin Davis: The first thing I look at is the definition and the first thing that I go by is it done by one of the resident's, then it's okay, do you fit within 1 through 5 of any of the things? If they say okay, I'm a dressmaker. Okay, then I flip to the other section and I find out how big is the office and go through the steps there.

Don Mazzeo: Are there any circumstances that you or a representative from Town actually enters the premises to verify 25% more or less?

Robin Davis: As of right now, the way it is, they have to submit a floor plan showing where their office is, because right now it has to come to Planning and Zoning, so they have to submit a floor plan showing where their office is.

Don Mazzeo: Okay, extending that out just a little bit, we could still require that the floor plan be brought to you for purpose of being reviewed to make sure it meets the 25%, but may not necessarily have to come to Planning and Zoning.

Seth Thompson: The only difficulty is still...

Don Mazzeo: You're believing what you're presented and that someplace they're signing the application that everything is true and above board and all that happy stuff, so in theory they're supposed to be telling us the truth.

Robin Davis: Again, I don't know... Is it really relevant, are you going to cause a lot more traffic or more issues in the neighborhood if you're at 30% or if you're at 20%?

Don Mazzeo: What if you're at 55% and your home is 1,600 square feet? The likelihood is what, that you're going to be using more of your home for business, than you are for residency. Now it becomes a business location and you're not zoned for it.

Seth Thompson: Right and I really view this as an accessory use. That in my mind, that's the category. The primary use should be the residence, however you're using it; because this is really an accessory use. Just kind of in theory, the home-based occupation, the occupation shouldn't consume the home, because then you're just...

Don Mazzeo: A business.

Seth Thompson: That's right. The one nice thing about enforcement when it comes to at least certain elements of this, if they're open to the public, the Code Enforcement Officer can walk in and that's...

Virginia Weeks: Are we more or less agreed that we will leave the floor space as is, presently in the definition of 30%?

Seth Thompson: It's 25%.

Don Mazzeo: It's 25% at the moment.

Seth Thompson: And it's capped at 500 square feet.

Virginia Weeks: Shall we leave that? We agree on that?

Don Mazzeo: I think that's a fair number. Now is it opened to interpretation by Code Enforcement and/or Robin, to say well this is representing 28%. Oops, sorry. Doesn't qualify.

Linda Edelen: Why is that necessary at all? How does space, necessarily, impact what we're really concerned about, which to me is how it affects the neighborhood? It's a residential neighborhood. I want to know how it impacts everybody else; not you. If you can do it in 50%, if you can do it in 10%, if you can do it right here in your computer... But how many people... We have that. How many people show up? How many cars are going to be there? That's what we're concerned with. It's very tough.

Seth Thompson: The one concern is that the accessory use, engulfs the principle use of a residence. I think that's the... I see that as why they put it at 25%, that was the number they came up with...

Linda Edelen: Was that an IRS issue? Did it copy tax implication and spacial stuff?

Seth Thompson: If I'm not mistaken, for the IRS it needs to be a certain amount. In other words, it's a floor, here it's a ceiling. Do you know what I mean? That a certain area has to be dedicated, in order to qualify.

Linda Edelen: True, so you can take that exemption, yes.

Don Mazzeo: So what we could then say, based on the fact that it should be residential, because that's what it is. It's less than 49% of the floor space of the home, would still be qualifying; not 25%, but less than 49%.

Virginia Weeks: Less than 49% could be 1,500 square feet.

Don Mazzeo: But not to exceed – 500 square feet?

Seth Thompson: 500.

Don Mazzeo: Okay.

Virginia Weeks: I'm thinking in particular of there's a gentleman, I guess it is, I have no idea; who lives in Wagamon's West Shores who runs a travel agency and he has events at his house, because I've seen the ads in the newspaper. He has people come in for travel presentations.

Linda Edelen: So he's using his house as if it were a commercial building.

Seth Thompson: There isn't supposed to be group instruction under our definition.

Virginia Weeks: I'm not even sure this gentleman has a Town license.

Robin Davis: I don't think so.

Don Mazzeo: He does not, but he has a State license.

Seth Thompson: I think that's part of it...

Linda Edelen: Group instruction could be tutoring.

Don Mazzeo: So therefore it's a group, is it not; if you have three students and you're tutoring them mathematics? Is that considered a group? Alright, now we have to define group? See I think the more we talk about it, the wider this is getting and I'm not sure we want to go wider. We want to kind of narrow it back in. I don't mean the scope, but what we're really going to have to track on here.

Virginia Weeks: That's why I would like to see a two-tiered level, where you put not the business, but the parameters of the business in the most liberal and make that just a plain Permitted Use, not needing any sort of special exception and those that are going to exceed that use, need to go to the Board of Adjustment.

Seth Thompson: I think that makes sense. I think that's logical. You're not going to be able to legislate for every type of business and therefore say, well, this person if you're teaching this, then you're limited to three people and that sort of thing. It's easier to say if people have no more than X number of patrons; if they don't have any patrons coming to the house; those are the easiest businesses basically.

Virginia Weeks: Or, no more than 2 or 3 at a time; then it could be a Permitted Use.

Seth Thompson: The one thing I worry about with 2 or 3 at a time, you kind of get the coffee shop turnover that can be a problem.

Don Mazzeo: Yes, 2 at a time, 1 leaves, 2 more show up; 2 leave, 1 more comes in.

Seth Thompson: It comes down to the frequency. If they have a lot of turnover, 2 or 3 at a time, could still result in 50 people in a day and most of these home occupations I don't think are a turnover business, but it might be easier to limit it to a total number of patrons per day. That might be an easier way.

Linda Edelen: Can we make a list of those home occupations that would not likely exceed the parameters you're speaking of and would just generally, always be Permitted Uses?

Don Mazzeo: I think that's what Virginia Weeks is alluding to.

Linda Edelen: Well start with a list.

Virginia Weeks: No.

Don Mazzeo: You don't want to have a list of permitted?

Virginia Weeks: I want to have a definition of what is required to be permitted and if you can make your business fit within that definition, then it's permitted.

Don Mazzeo: Okay, taking your lead then, what would your definition be? I'm not looking for the specifics, let's just talk about it.

Virginia Weeks: For one thing, I would require parking to keep a lot of cars off the street. You would have to have at least one extra parking for the business, because I don't want to see Union Street...

Don Mazzeo: Off-street parking?

Virginia Weeks: Off-street parking. I don't want to see Union Street, I don't want to see Broad Street, I don't want to see...

Don Mazzeo: How about any street? Period. We don't want to have the extra cars on the street.

Virginia Weeks: I know, if we had wide streets, like you do in Wagamon's West Shores, I wouldn't care.

Don Mazzeo: But even some of them are not.

Virginia Weeks: Because there's room for cars to pass each other. There is not room on Chestnut Street, there is not room on Union Street and there is not room on Federal Street. I know. I live on those streets. I have to stop when there is a car parked on Union Street and let the other car pass and then go around and if we get a lot of parking on those streets, because everybody's opening up some sort of a home business... How are the fire engines going to get around with traffic?

Don Mazzeo: They're not, but what you're looking for then, is to have exclusions, like location?

Virginia Weeks: No, I prefer to call it inclusions, because if you live on Union Street and you have room for off-street parking for one person, because you are a home business and you're not going to have 40 people there, then that's part of the way to the Permitted Use.

Don Mazzeo: Okay, so therefore town-wide, any applicant would have to have a minimum of 1 off-street parking...

Virginia Weeks: Above what is required for the business.

Don Mazzeo: For that particular _____. Okay, would that work from the standpoint from Code Enforcement or applications?

Robin Davis: Yes, the thing would be is then they would have to pave it, access in there, would anybody really be using it?

Don Mazzeo: That's an enforcement policy. You can't put that on the applicant.

Robin Davis: But if you just tell them you have it, nobody says you're forcing them...

Don Mazzeo: Yes you are, if it's part of the Code it is.

Robin Davis: But it's not illegal to park out on the street in front of the house. They're still going to park there.

Don Mazzeo: To your point, however, and this is Ginny; here's the house that's doing the business; they do have a space on-site; here's my house over here; but my guess is going to park in front of that house.

Virginia Weeks: Most people I know that go visit people that live on these crowded streets, get their car off the street, because it's not safe. When Ellen Passman has party's, none of us park on Federal Street because too many of us have had our mirrors taken off our car by cars going by.

Linda Edelen: I just have a lot of trouble with that parking thing. I live in a house. I've got the space and the talent to have a home occupation, it's not bothering anybody. I have people that show up once in awhile, but I don't have an extra parking place. I don't have an extra parking place. Now you're not going to let me have...

Don Mazzeo: No, we're not saying that you're not going to be allowed to have the business set up there, but you're going to have to come to Planning and Zoning or somebody to review that process. This would not be a permitted use, if you don't have the parking.

Virginia Weeks: It would remain a special use.

Linda Edelen: Okay. Now I understand that better, but now I'm here before the Planning and Zoning Commission and I don't have that place. What are you going to say?

Don Mazzeo: In theory, you might not get approved.

Linda Edelen: Okay, but the occupation is not offensive in any way to the neighborhood. I'm parking down in a public spot.

Don Mazzeo: Well that's a different story then.

Linda Edelen: I'm parking... It's frustrating and complicated and it's people trying to conduct businesses out of their homes. They're just people. They're not, for the most part they are just people trying to make it. Piano teachers. Construction people, there's lots of people work out of their homes now. How can we possibly require parking?

Virginia Weeks: What do you want to do about the safety issue of emergency vehicles and so on getting through the streets? How do you want to handle that?

Linda Edelen: I don't see it differently than if I have four women over for a cup of coffee in the morning. If there's an emergency, people are going to have to scramble and get their cars out of the way.

Virginia Weeks: But you live in a sub-division that doesn't have the traffic Union and Federal and Chestnut and Mulberry and these streets have. You don't have the thru traffic the rest of the Town has.

Linda Edelen: Well maybe the issue is the parking issue, the issues that the Town has, having not anything to do with people who wish to have a legitimate home occupation.

Virginia Weeks: People who wish to have a legitimate home occupation, then crowd the streets.

Don Mazzeo: Potentially.

Virginia Weeks: Potentially crowd the streets. That's my only... I know what it's like to travel Union Street and have three or four cars parked and have to do this game of in and out and in and out. Lynn?

Lynn Ekelund: I live on Union Street and I am totally not in favor of any home occupation at least on Union, Federal, anything that isn't in a sub-division in Milton; if you have cars parking in front of homes, it's just a recipe for disaster, especially on Union where the fire trucks come down constantly. I think it is a safety issue and I think it should definitely be included, for someone who wants to have a home occupation without coming before Planning and Zoning, Board of Adjustment and explaining why they don't need that parking place. If it is, I don't need because no one ever comes, so I don't really need it. Fine. Explain it to some Commissioners. Let them listen to what you have to say and make a decision, rather than make it automatic. Fine. You don't need it. Great.

Seth Thompson: I agree with that, in the sense that there's a process, where let's say you don't have the parking space, but you live across the street from a public parking lot. At that point, that's fine, that individual case has easy justification for when they go and apply through the Special Permitted Use process. I don't have the parking space, but there are twenty spots across the street, so you get to look at it on the individual basis, so it's not excluding those people as _____, and frankly I would think that the businesses that are going to have traffic, would want to have some available parking. I know that in the summer in Rehoboth, I'll go to a different coffee shop if there isn't any parking in front of the one... I'm not saying these home businesses are going to be coffee shops, but I think most businesses if they are going to rely on foot traffic or people coming in and out, are going to think about parking. I understand your point. I think it's a good one that the automatic approval for the home-based business, if it's a single family residence, they have two spots, plus one, so they have three. That sort of thing. If they don't have the parking space, then they'd go through the Special Permitted Use process.

Virginia Weeks: I think another one of the problems is that I think that the fee charged for a resident to come in and have Planning and Zoning or the Board of Adjustment or whoever, waive that, or look at. It's extremely high and they need to be readjusted for residents. That would be my recommendation to the Council, because you cannot charge somebody \$400 to come in.

Seth Thompson: But they're coming in to do something to make money. I understand your point, that some of these are... I don't know what piano lessons are these days, but you could... we've had this general discussion. Some towns have their license fee based on expectant growth revenue, that sort of thing. That is a possibility. I understand your point too, home-based businesses, by their nature, aren't going to be giant money makers. They're limited to 500 square feet; unless they're making crystal meth, they're not going to produce a lot of money.

Don Mazzeo: If it can be done in 500 feet.

Virginia Weeks: I was just trying to get to an inclusive way to allow people to go through. If you have this, this and this available, you're permitted. If not, then you're going to have to go and ask for a Special Permitted Use.

Linda Edelen: Yes, I'm definitely with you on that.

Virginia Weeks: And one of the things I was truly concerned about is traffic on the streets. Broad Street. I know that in the summer when King's Ice Cream...

Linda Edelen: I've tried to find a place to park on the street.

Don Mazzeo: That's not a home business.

Virginia Weeks: It gets really difficult to maneuver Union Street at that point, so if you have five houses in a block that all of a sudden have cute little... I just want to prevent that horror of the in and out and the in and out and so on. We had a dog grooming place on Federal Street and the Council very nicely waived all parking requirements for it, because it would not have fulfilled the DeDOT. What about that? Our home occupation's going to have to be referred to the State, when they are on State roads?

Robin Davis: DeDOT has a policy that says any change of use, they want to see it; whether they require anything or not, that's up to them; but they want to be notified. They have to be notified. So would a home occupation be classified as a change of use? I do not know their definitions, as all applications I tell them they have to go to call DeDOT, call Fire Marshall and when they start building stuff, which may be talk about parking lots; might require them to Soil Conservation.

Virginia Weeks: Then I think what Seth said is very important; that we turn these as accessory uses, so they're already included.

Seth Thompson: That is really what it should be, because the other thing that I often think is that parcels should really have a single use and then an accessory use. You shouldn't have a parcel that has 30 different primary uses. That's not really how zoning is supposed to work.

Robin Davis: I don't know if adding a business of any type, is something for DeDOT to say, I don't care. I understand it's still a residential unit, but whether you're adding a home occupation as an accessory or permitted or special, they still might say we want to know about it, because we want to talk about the traffic. That's exactly...

Virginia Weeks: Let's assume that they don't.

Seth Thompson: We can't do anything about what they require, anyway.

Virginia Weeks: The other thing is in this permitted use, I would like to say that you can not have any non-residential employee's, consultants, partners or contractors. It's solely for the use

of the people who live within the house, the business.

Linda Edelen: Example, a contractor in the development. He describes himself as a Handy Man. I wouldn't. He's much more than that. He has a truck, nicely kept.

Don Mazzeo: Is it on the street? Is it visible?

Linda Edelen: It is in his small, but adequate driveway. His truck. Lots of other trucks in my development. Occasionally he hires someone to come help him do a job. Is that his employee?

Seth Thompson: The question is whether they're using the building. Right. I wouldn't use the term as whether he has an independent contractor or an employee working at any point. It's a question of whether they're using that facility. That's the way I would view it.

Linda Edelen: Okay. So if the guy is coming in every day, reviewing plans and things, really in the house.

Seth Thompson: It sounds to me like Ginny, you wouldn't want them going to the house. They can review those plans on-site, wherever they're doing their construction, but Ginny you don't want them coming to the house.

Virginia Weeks: I'm talking about, for example, there was a gentleman who appeared before the Council that I believe lives in Cannery Village, that is running an engineering firm out of his house and he has somebody else that comes and works with him. That shouldn't be an automatically Permitted Use.

Lynn Ekelund: That's something that I also thought about. I actually wrote it down. "No person other than the resident of the dwelling, shall be employed on-site or report to work at the site, in the conduct of the home occupation. This prohibition also applies to independent contractor's." I'd like to see something very similar to that.

Don Mazzeo: Again, it's not allowing them to be there, it's just that it's going to be a secondary process to come to Planning and Zoning or wherever it may go, but it's not going to be an automatic. Yep. Go ahead and do it.

Lynn Ekelund: That's an automatic.

Virginia Weeks: For example, your contractor. His men cannot come and park by his house all day and go in his truck somewhere else to work. They can come and pick up stuff from his house. They can come and pick up plans from his house, but they cannot report to work there.

Don Mazzeo: Go back just one little bit, if you could. They could pick up stuff? That means that he's storing it there. If it's stored inside, or in an accessory building, I think is the way it's called...

Virginia Weeks: I believe we allow storage in an accessory building.

Don Mazzeo: I understand.

Seth Thompson: It depends on whether you're looking at the definition or the requirements, so again, under the requirements it says that it just can't be seen from the outside.

Don Mazzeo: Can't be seen from the outside.

Seth Thompson: Right. But then in the definition, it's not supposed to have anything.

Virginia Weeks: We have a well-known local contractor who lives on Chestnut Street with a whole bunch of outside storage, when he really doesn't have any setbacks and he's got it nailed to the back of his garage. It's very neat and everything, but it's all outdoors.

Don Mazzeo: Not permitted, is it?

Virginia Weeks: Apparently it is.

Linda Edelen: So it's not permitted and they come now before the Board and...

Don Mazzeo: There would be a review process, just like any other application.

Lynn Ekelund: It's just that it can't be automatically...

Linda Edelen: What are we going to review? His/her answer to our questions?

Seth Thompson: Basically there are specific... In my mind, they would need to show why the requirements that would make it an automatically permitted accessory use; how they're satisfying those concepts in their particular instance. Again, it's kind of like the public parking lot across the street, that sort of thing. That's how I view it, anyway. That's how I would view the process.

Linda Edelen: So they were rejected...

Seth Thompson: They just didn't fit the requirements.

Don Mazzeo: They did not fit the requirements for an automatic...

Linda Edelen: So now they're before us and we're asking them to enumerate those issues again and give us answers that we feel, on an individualized basis, are now acceptable, so we allow it.

Don Mazzeo: Right. It could be extraneous information that is it present...

Linda Edelen: Yes, I could find a place, for somebody to park or I don't know what else.

Seth Thompson: I think that makes sense and the other element is you can attach conditions so that you're not opening up the flood gates. Again, if it's the notion of worker's, whether they're independent contractors or employee's, coming to the house; that's what kicked them out of the automatic approval; they had filed the application. Okay. You're allowed to have one person come. Well that's fine, because those are all the employee's I'm going to have. That sort of thing. You'd attach conditions to the Special Permitted Use.

Linda Edelen: But if they have two; do we say you cannot operate that business in your house?

Virginia Weeks: Without special exception permission.

Seth Thompson: Right.

Linda Edelen: So that's a different process.

Don Mazzeo: Each one of them is costly.

Virginia Weeks: One for sliding through and one for getting a so-called variance to allow it.

Don Mazzeo: We're still not preventing anybody from applying and presenting their case to a body of individuals for review.

Virginia Weeks: We're not making any judgment on what the business is. What we're judging is, how is it affecting the neighborhood.

Linda Edelen: Yes.

Don Mazzeo: If there are two individuals who park there and leave and the gentleman's truck in the morning; that might not be acceptable. It certainly would not be an automatic based on what we're talking about; an automatic Permitted Use; but maybe under certain circumstances, it may be permitted.

Virginia Weeks: There used to be a gentleman in Wagamon's West Shores who ran a painting company out of his house and his employee's would park on the street, around his house, all day while they were painting.

Linda Edelen: Yeah, well I wouldn't like that.

Seth Thompson: Bringing it back to the storage of materials, it's interesting to me because again it says that in your current definition it talks about the fact that no commodities are stored or sold; the storage is a little bit difficult for me in that some of the items that we list as examples of what would be permitted, I don't know how an artist doesn't store his artwork at his house; that sort of thing.

Don Mazzeo: But it's not visible from the outside.

Seth Thompson: And that's really where I was going with that. I take it the Commission would like that to really be the rule; that things aren't being displayed and they're not visible from the outside.

Don Mazzeo: That would be part of what I would suggest, that would be under the automatic; it would have to be nothing is stored outside. Visible.

Virginia Weeks: Will we allow them to store stuff in a shed or in an auxiliary building?

Seth Thompson: Well it would factor into the gross floor space.

Don Mazzeo: Would it?

Seth Thompson: It should. That's how I would... because it's part of that business.

Linda Edelen: Storage? So if you have a bunch of lumber or something in your garage; that's part of... I'm just curious.

Don Mazzeo: Let me ask a question then. Is an individual who does have 1,600 square foot house and he has an another 600 square foot out-building, on the property; can he used all... and he's not met our threshold of what we may present at less than 50% inside, but he can use all 600 square feet outside. Does that put him over the limit then?

Seth Thompson: Let me look at your definition of Dwelling.

Virginia Weeks: I have another question. You have somebody who makes shelves for a living and rat tat tat, hammer, hammer, hammer all day; okay?

Don Mazzeo: Well there is something in the current ordinance that says about noise, noise pollution if you want to use that.

Virginia Weeks: Okay, because if you have... the other thing is we have a lot of townhouses in town now. You know, we have a lot of so-called villas in Cannery Village and so on and I know I have heard people say that they can hear their neighbor's sound systems sometimes. Now do you want somebody giving tuba lessons all day, next door? I'm just asking.

Linda Edelen: They'll only compete with all the dogs barking.

Virginia Weeks: Well I think that it should be that noise from whatever business, shall not be heard outside of the limits of the house.

Seth Thompson: Do you want to set it at the decibel level, or it can't be any noise.

Virginia Weeks: If I'm sitting in my living room, I don't want to listen to a student trying to play the piano, all day.

Don Mazzeo: Alright, well this one happens to be from Lewes. The equipment or the business operation cannot create any vibrations, heat, glare, dust, odors or smoke discernible at the property lines. Now, when you have a townhouse, the property line is the common wall; to your point, somebody's doing the tuba and you're going to feel vibrations, perhaps...

Virginia Weeks: And you're going to hear the noise.

Don Mazzeo: Right. In theory, the neighbor comes to town, files a complaint and the business, in theory, would then have to shut down. In theory, or rectify the condition, whereby they could put sound deadening walls inside; because it's internal. They could do anything they have the right to do inside their own home.

Virginia Weeks: Actually, that sentence is fine if you just add noise to it.

Seth Thompson: Okay.

Don Mazzeo: In effect, it does, because it says generates noise that violates any city ordinance or regulation pertaining to noise.

Virginia Weeks: I was looking at the...

Don Mazzeo: It's almost all inclusive there.

Lynn Ekelund: I think also to harken back to a prior meeting that we've had, if you're going to include noise, you ought to include glare, odors...

Don Mazzeo: Yes that's here, glare, odor, dust, smoke...

Lynn Ekelund: Include it all.

Don Mazzeo: So to your point Ginny when we have the guy building his little shelves in the back someplace, or his basement, or whatever...

Virginia Weeks: Or his backyard.

Seth Thompson: Are we thinking of having this in the outside of the unit? I mean...

Don Mazzeo: Well the home occupation cannot be outside the building.

Seth Thompson: Right, so that's...

Virginia Weeks: That's what we need to say.

Don Mazzeo: So therefore, there cannot be any outside operations.

Virginia Weeks: That needs to be in the ordinance.

Linda Edelen: Operation, but we're not talking storage?

Don Mazzeo: No storage is independent. Storage is independent.

Seth Thompson: It's interesting. Lewes used the modifier entirely within a dwelling unit, in their definition; the purpose of that is again, avoiding the spillover of tools and saw horses in the backyard and that sort of thing.

Virginia Weeks: I lived in an apartment in Florida for awhile and we could hear the people upstairs sometimes; who wanted to listen?

Don Mazzeo: Well sometimes you don't have choice.

Seth Thompson: Do you want hours limiting?

Don Mazzeo: Oh absolutely.

Lynn Ekelund: Yes.

Seth Thompson: Lewes had 7 am to...

Don Mazzeo: 7 to 9, but I would reduce that, personally, to basically the same hours that Milton currently utilizes for it's construction hours.

Linda Edelen: 8 o'clock.

Don Mazzeo: I believe it's 5:30, 5:00.

Virginia Weeks: I believe it's 7 to 5.

Robin Davis: 5:30...

Virginia Weeks: It's 7 to 5:30, isn't it?

Don Mazzeo: It's 7 to 5:30?

Robin Davis: And 8 to 3 on Saturday.

Don Mazzeo: 8 to 3 on Saturday and nothing on Sunday.

Robin Davis: Nothing on Sunday.

Don Mazzeo: I would try and use the same set of criteria that way. Is that going to present a problem to a home business? Hey, you want to be a home business, you've got to follow the rules and regulations that are presented.

Virginia Weeks: Or go for a special use.

Don Mazzeo: Or go to a special use. Right. We're trying to compact what we want to be able to be easily permitted, go, but remember you can't have your tuba lesson, vibrating the guy next door at 7:00 at night and have your tuba stored outside. I'm looking a little facetious there.

Virginia Weeks: Rather than going through and saying doctor's are allowed or dentist's are allowed or daycare is allowed or this is allowed; this way you don't get caught in that

melange of who can do what.

Seth Thompson: I think it is helpful. Your ordinance has it set up currently where it's not limiting, if you look at the definition; it's any occupation and it says includes, but not limited to the following... It is helpful, I think, in this instance, to have a list of the theoretical uses; but again, not having that as the exclusive list. If a Judge goes to interpret something, it's helpful to see that's what they mean by home occupation or that's a traditional home occupation.

Don Mazzeo: So you're suggesting that we do put some examples of what we would anticipate to be the new Permitted Uses...

Seth Thompson: Exactly, but just not have that as the exclusive...

Linda Edelen: Like Lewes has done?

Seth Thompson: I don't mind the way we've done it there and really Lewes kind of does the same thing...

Don Mazzeo: They did.

Seth Thompson: Because they say offices. Their language is pretty broad, to the point where they then said, here are prohibited home-based businesses; under their Sub-Section C there... they felt B is pretty broad, so let's put in Sub-Section C that says these can in no way be home-based businesses; adult daycare center and child daycare centers.

Virginia Weeks: Daycare centers should always be a special use.

Seth Thompson: Kennels and stables. I mean...

Don Mazzeo: Childcare.

Virginia Weeks: Childcare should always be a special use. There are safety rules. There are all kinds of things the Town should look at.

Seth Thompson: Restaurant's, bars, night clubs... I was going to open up a night club in my front room.

Don Mazzeo: You never know.

Virginia Weeks: What, for a daycare? What do we want to do about a situation, such as recently a lot of antique shops downtown were closed. Now, each of those were little, individual pieces that belonged to different people and they all sold at the same place. Are we going to allow them to sell antiques from their house, as long as they don't have signs and so on?

Don Mazzeo: That's retail.

Seth Thompson: That is interesting. Antiques makes it very easy to picture, but the question is whether somebody's going to be able to buy and sell items out of their house; so is it the craftsman? At some point...

Virginia Weeks: I would like to see a prohibition on retail sales in the home occupation.

Seth Thompson: The difficult will be on how we define retail.

Virginia Weeks: Somebody can order pastry's from you, but they have to be delivered to their house; things cannot be bought...

Seth Thompson: I think the easy way to effectively deal with that, is by limiting the number of patrons that can come to the business on a given day.

Don Mazzeo: How do you control that?

Virginia Weeks: You can't control that Seth.

Seth Thompson: I think you can, because you can observe that from the outside.

Virginia Weeks: And who's going to do that?

Seth Thompson: That's not going to be a very fun day, obviously, for the Code Enforcement

Officer sitting on a stake-out for eight hours.

Don Mazzeo: No, but I think Linda Edelen has the right item there. Who's going to monitor it, the neighbor's, because they're going to be upset about the fact that they can't get in perhaps their own driveway, occasionally, because there are too many cars in front of them. I don't think that enforcement should be placed upon the public, however. It's an input that is certainly advisable, if you happen to have an issue with the neighbor, but the Town shouldn't be putting the emphasis on the neighbor's what we want to put out there.

Seth Thompson: Right.

Robin Davis: But I don't want to go to neighbor vs. neighbor and I don't like Jim Bob next to me; so I'm going to sit there every day and say he had twenty; I saw twenty; come out there.

Don Mazzeo: And you get six people that say the same thing and all of a sudden, no...

Robin Davis: Then the Code Enforcement Officer goes out there and says I've got complaints that you've got twenty... He says no, it was only nineteen. So prove it.

Lynn Ekelund: I think there should be certain distinct prohibitions. I just believe there should be. That way Robin, in somebody comes into you, you can just say well, it's not that you don't fit here and you have to go there; this is a no-no. We don't allow it.

Virginia Weeks: Retail use is not allowed.

Lynn Ekelund: For example, retain use is not allowed. Adult daycare center. Not allowed. We can come up with a definition, but do we want to agree that there is a concept that certain prohibitions should be in effect?

Don Mazzeo: Yes. From my side, yes. There should be certain things that cannot, will not, fit that category.

Lynn Ekelund: And even if they come before some body, that body is not empowered to allow that type of business, because it's prohibited and it's listed as prohibited...

Virginia Weeks: Unless it's Conditional Use.

Linda Edelen: And that's what Lewes has.

Seth Thompson: Right.

Linda Edelen: You know. You read this, you know you can't do that. Don't bother...

Don Mazzeo: Don't bother looking.

Lynn Ekelund: Exactly. That's what I would like to see.

Virginia Weeks: I would just as soon make all retail a prohibited home...

Seth Thompson: So the difficulty there, let's take the artist that doesn't bother anybody; just paints his pictures; so he has to rent space elsewhere to sell the art. Is that it? Do you see what I mean? The question is whether...

Virginia Weeks: By retail, I mean it's a store... Maybe the number of patrons is the better, but I have no idea how to do that.

Don Mazzeo: I can tell you, I have a neighbor who is a painter, several of them actually... A painter, I mean an artist, excuse me and if somebody comes to his house and wants to buy one of this works of art, the guy parks in his driveway, he's got a four-car driveway, never on the street, the individual goes to the door, knocks on it, says hi, I'm here to buy the or pick up the... and goes in, money is exchanged and the individual gets back in their car and drives way. That's retail.

Seth Thompson: Inventory makes that easier.

Virginia Weeks: Maybe it should be only businesses that have people coming by appointment.

Seth Thompson: I think that one's even more difficult to regulate than having a limited number of patrons per day; by appointment they can schedule an appointment; _____ as you walk in the store. I think that one's difficult too.

Robin Davis: I'm going back to the 5:00 hour. Seth is in his office at home doing paperwork, that's after 5:00.

Don Mazzeo: And who could enforce it, number one? Who would know, number two? And the question that you're posing is absolutely correct and valid. We might not want to stop at 7:00.

Virginia Weeks: Then you simply say no clients after 5:00. You can work all night, but you can't have clients.

Robin Davis: That's where it gets to that...

Lynn Ekelund: Weren't we talking about external noises, odors, glare... that would be produced outside of those hours? If he's sitting there and unless you're a really heavy typist, I don't think he's going to bother the person.

Seth Thompson: It's impossible. I'm always here.

Robin Davis: But to go back to that, refer back to Lewes, it does say customer or client visits to the home are only allowed at certain times. It doesn't say that I can't be painting my painting at 9:00 at night; I just can't have somebody come to my home and buy or visit, even look at my stuff after...

Don Mazzeo: No transactions of business.

Linda Edelen: If you're talking retail, there's the whole Internet market. I can make spaghetti sauce, which by the way is terrible and try to market on line... Did you ever see that I Love Lucy one?

Lynn Ekelund: Lucy on the Internet.

Virginia Weeks: That's fine, because you're not having people come to your house; that's the real...

Robin Davis: But she's going to have an additional parking spot.

Linda Edelen: Why?

Robin Davis: Because that's one of the requirements.

Don Mazzeo: Because we just put a rule in. A theoretical rule. We're still at that level. We're still in theory.

Linda Edelen: Oh.

Robin Davis: I'm selling all my stuff on E-Bay, but I'm going to have to have a parking spot.

Virginia Weeks: Yes.

Don Mazzeo: Well, then you have to have a parking spot. Do you know what, if you're living in a residence... Let me ask this by asking a question, Robin. If you are a resident of Milton, in a residence, do you have to have a driveway to park your car?

Robin Davis: You have to have two parking spots per residential unit.

Don Mazzeo: Then it's qualified by then having an Internet business, selling on E-Bay, because you have two car spaces available. You just don't happen to have one for your neighbor that he can borrow.

Robin Davis: No, that means you have to have three, because you have two for the residential and one for the business; so now I've got to have three.

Don Mazzeo: But if you can prove you put both your cars in a garage all the time?

Robin Davis: Again, we're all not just saying you've got to have three; if you want to do

your home...

Virginia Weeks: But the garage is counted as one and then if you have two more in the driveway, that's your three.

Don Mazzeo: In the driveway, that's your three.

Mark Quigley: If you have a garage?

Don Mazzeo: Assuming that there was a garage, yes.

Robin Davis: Correct. You're required to have two, so if you only have two, we're going to make you put in another parking spot.

Virginia Weeks: Yup.

Seth Thompson: Although they would end up coming up...

Lynn Ekelund: They won't be able to slide through; they'll have to come...

Don Mazzeo: No, they wouldn't slide... It wouldn't be an automatic.

EVERYONE WAS TALKING AT ONCE. I COULD NOT SEPARATE THE VOICES TO MAKE A CLEAR TRANSCRIPT.

Don Mazzeo: But they would come through with the regular Planning and Zoning or whatever body is going to review it and they could say, oh you have a two-car driveway and your both cars... I only have one car. That's your explanation to your point about I'm selling on E-Bay.

Robin Davis: Okay, but then I'm still going to have to spend the \$1,000 for a public hearing.

Don Mazzeo: That would take us back to what Ginny earlier on said, maybe those fees are perhaps excessive...

Robin Davis: But most of those fees, except for the \$100 application fee, goes to the newspaper notification, the certified mailings, having our Solicitor and our engineer, maybe, at the meetings. It's not...

Don Mazzeo: We're not making money on this. I understand.

Robin Davis: \$100 and that's it, for the application. The rest of it is costs that are incurred for that application.

Don Mazzeo: I'm going to take the Devil's Advocate side. If it's a home business, the purpose of having a business is to earn income; if you're earning income, you have to spend money to make money. If it's \$800, I think it still is excessive, but if it's \$800 and they really want that business and it's an ongoing, good business... you've got to spend it.

Virginia Weeks: And it's a one-time tax.

Don Mazzeo: And it's a one-time deal. I'm playing Devil's Advocate.

Robin Davis: I'm just telling you what I just heard from the people that I've talked to, the two smaller... I personally think the engineering firm went over and should be coming, because now I've got an employee/consultant or somebody here and I've got people here.

Don Mazzeo: That's totally _____ we are here.

Robin Davis: But again, then we go back to the same, I'll even go further, I'm not doing E-Bay from my computer at home, I'm a consultant where I do all my consulting outside; I've never done anything from home because I don't have anybody here; I go to Universities; I go to other businesses and do all my consulting there. Again, I'm going to have to go back and do a parking spot; or I'm going to have to come to Planning and Zoning or Board of Adjustment, if it goes through and go through the public hearing process for that; even though I have zero business at my home. I might be a contractor that has my buildings where I store all my stuff and my trucks and my employees go out there, but my mailing address where my business license is, is my home, because I don't have a mailbox to the

business out on Harbeson Road. Technically, the way we have it right now is your home office is there; so you would have to go through the process; even though nobody would ever know. I get in my truck at 5:00 in the morning and go out to my business. I'm just throwing... because I hear that from people, from the people on this list.

Don Mazzeo: Absolutely, I understand. Maybe as an additional condition for automatic is that there are no employees ever at that business; there are no visitors at that business; then you don't need to have the one extra space that we are qualifying. I'm just throwing it out.

Virginia Weeks: That's fine, if you want to limit it, that there is never anybody there consulting with him, that they never have a visitor for business reasons...

Seth Thompson: I guess I'm envisioning a requirement automatically permitted accessory use, parking, plus one, unless your business has no employees, has no patrons, has nobody coming there...

Virginia Weeks: Their business is not going to have employee's anyway.

Don Mazzeo: You can't have an employee, based on the fact, if it's under the automatic, we're saying no employees.

Virginia Weeks: No signs.

Seth Thompson: No customers.

Lynn Ekelund: Displays.

Virginia Weeks: No displays.

Lynn Ekelund: Commercial vehicles.

Don Mazzeo: We can get that for you.

Seth Thompson: I think with signs, we'd probably end up, I would deal with it in the signs, sub-section, article of your zoning ordinance. Do any of the home businesses have signs?

Don Mazzeo: They're allowed, I believe, up to four square feet, is it?

Linda Edelen: Yes, I think three?

Don Mazzeo: There was a number, I can't remember it.

Virginia Weeks: I'm not sure because they're all special uses and so they have to go before the Board.

Robin Davis: I think it does have in R-1's, which most of these would be, or all these would be; no home occupations are in Commercial and Light Industrial...

Seth Thompson: It is possible that they could be using a commercially zoned property as a residence.

Mark Quigley: What about the case if there's somebody who's a therapist and they have somebody come into their house?

Seth Thompson: The theory is that they wouldn't fall into that automatic exception, unless they had the extra parking space and the question is, are we putting something...

Don Mazzeo: No. No clientele.

Seth Thompson: Okay.

Mark Quigley: There you go.

Don Mazzeo: No clientele would be part of that.

Seth Thompson: We talked about no retail, the question is... the service industry is something a little bit different. I understand they're selling something, but when we think of retail, they're typically selling a good vs. a service. Are we putting any sort of limitation on the piano teacher, on the therapist, in terms of the number of patrons that can visit? Or no?

Virginia Weeks: That's up for discussion.

Lynn Ekelund: I think there should be a limit. I don't know what that limit should be, but if

you don't have a limit, you're going to get kicked in the butt, so I think there should be something, either a limit of number of people per day, or per hour, or the number of people at one time. I would like to see, if we're talking about the piano teacher, if the piano teacher has one student at a time, she doesn't have 2, 3, 4 and she's limited to five students a day; and again, I don't have children and I didn't take piano lessons, so I don't know whether that's realistic, but...

Virginia Weeks: If we're going to allow businesses in home occupations to run from 7 in the morning until 5:30 at night, I don't think we should limit their clientele. I think we should say no more than one client at a time. Mark, what we've done is we're looking at trying to have an inclusive category; two categories. One where you are just absolutely permitted, because you fit these specifics and another one, where you have to go for a special use. One of the things that brought that forth for me, was the fact that you cannot have a lot of parking on Union Street and Federal Street and so on, so if you want to be an automatic slip through, you have to have a parking spot for your client, because it hampers fire trucks, it hampers traffic, just in general. So we're trying to make a category that would be inclusive. As long as you fit these parameters, you can have at it and then have everybody else who can't fit those parameters, has to go and get a special use.

Mark Quigley: Okay, so that massage therapist is the same as the piano teacher or...

Virginia Weeks: If they have a parking spot, they slide right through. If they're on Union Street and they don't have a parking spot, they've got to go for a special, because we cannot allow the streets to become clogged.

Don Mazzeo: I think that's a given, based on what we've come across so far tonight. Now, to your point though, take a therapist; the therapist has a session for 30 minutes; the next 30 minutes; the next 30 minutes; we just opened it up for a nine hour day; that represents potentially eighteen visitors to that location. Where do we limit it?

Virginia Weeks: And that's fine with me.

Don Mazzeo: I don't know. And if we do put a limit on it, how is it monitored, other than the neighbors being upset about it?

Virginia Weeks: How are you going to limit a doctor's office? Or a dentist?

Don Mazzeo: That's my point.

Virginia Weeks: I don't think you can limit the number of customers; you can limit the hours; you might want to change the hours for a home occupation from 9 to 5, for example; but I don't think you can limit the number of customers. I think it's impossible to do.

Seth Thompson: When you say you don't want to limit the number of customers, you mean the total number of customers in a given day; we talked about the fact that it would just be one at any given time. The only scenario I see that being difficult, would be the artist where a couple walks in to look at the painting.

Virginia Weeks: But it's still one customer. It might be two people, but it's one buying entity.

Seth Thompson: Can you have group instruction then.

Lynn Ekelund: I'm waiting for OctoMom to come in with her kids for piano lessons; it's one buying entity.

Virginia Weeks: No, no, no, that's each person.

Seth Thompson: It's one customer, because we have these 30 students here and they all brought their Recorders.

Virginia Weeks: We have 20 kids and counting...

Don Mazzeo: So where are we now then? We're saying that we want a category for

automatic approval for a home-based/home occupation, because it's comparable.

Linda Edelen: Which is reviewed by the Project Coordinator...

Virginia Weeks: It's reviewed by Town Hall, probably Robin, whoever the Council cares to put...

Don Mazzeo: What are the parameters that we wish the Council to review, because that's where we're really at yet?

Seth Thompson: Here's where I am and you guys please correct me if I'm wrong. For the automatically permitted accessory use, we have the required parking in the Code, plus one additional space, unless your use involves absolutely no customer's visiting at any time.

Lynn Ekelund: No customer's, supplier's, no outside visitors.

Virginia Weeks: And you're within 400 feet of a public parking lot.

Seth Thompson: That's not going to be many.

Virginia Weeks: No, we only have one public parking lot.

Don Mazzeo: Why don't you put within 20' for that matter?

Virginia Weeks: You brought it up, Seth, by saying they'll park in the public parking lot.

Seth Thompson: I view that as a means of if you didn't have that additional spot, that would be the justification for going in front of the Commission or the Board and saying...

Don Mazzeo: But not under the automatic level.

Seth Thompson: Correct. I'm kind of spit balling here. Then we discussed keeping the 500 sq. ft. maximum, but then raising the percentage to up to 49% of the unit. Now obviously, you can't have many houses that are...

Virginia Weeks: If we're going to make it 500 ft. maximum, why do we need a percentage at all?

Mark Quigley: I have a question. What about the home daycare? How does that fall into this?

Don Mazzeo: It doesn't.

Mark Quigley: This is outside it?

Seth Thompson: That's right. We discussed a... We're going to use a list of examples, but it's not an exclusive list of examples that this should apply to and then there's going to be a section that identifies uses that can never be a home occupation and daycare falls under that. I think that was the first one mentioned.

Mark Quigley: Daycare?

Don Mazzeo: Daycare.

Virginia Weeks: You would need to go for a special exception for that.

Seth Thompson: We're talking about the automatic's.

Virginia Weeks: If you're going to put a daycare in Cannery Village in somebody's house, or something; you've got to give the neighbor's a chance to be notified and they have to be able to voice, because those children are going to be playing in the yard.

Lynn Ekelund: That brings up something else. If there are restrictive covenants in a Cannery Village or a Wagamon's West Shores, are we going to have something that's going to say that we're not smashing those restrictive covenants?

Seth Thompson: You want a disclaimer? We do not enforce your restrictive covenants.

Don Mazzeo: That would work.

Lynn Ekelund: It could be in flashing lights. There should be something.

Virginia Weeks: It would be good to have a thing that says that this ordinance does not override covenants.

Seth Thompson: I don't like doing that, because under the law... You know what I would equate that to? People occasionally have the no contact orders that say no unlawful contact; but nobody can have any unlawful contact, with anybody anywhere.

Virginia Weeks: Seth, we have, for example, the guys in Cannery Village that have the engineering firm. We give them a Town business license. Is that not de facto legal permission for them to have that business, even though their covenants say they can't?

Seth Thompson: But it's from us.

Linda Edelen: The covenants are a separate contract and we can say yes, but if they say no, then no, they can't do it under their covenants.

Seth Thompson: That's exactly right. Again, that's a contract that they agreed to when they bought that property, so we can't enforce that contract...

Virginia Weeks: I'm not looking to enforce it, I just want to say that our permission for giving them a license does not nullify any...

Seth Thompson: It does not. We're not a party to that at all. Actually Cannery Village is an interesting choice anyway, because I know that lots of people want to say well if it violates the covenants, we shouldn't grant it. They have a variance procedure in their covenants, so it could be that the Homeowner's Association; now I understand that it's still under the developer's control; it could be that the developer gives them a variance. We're not going to know that, so that's why I prefer that the Town stay out of a private contract. I don't think people should look to the Town to enforce those things, because really we can't and I don't think we should have to chase down where the Homeowner's Association stands on any particular issue.

Virginia Weeks: That's not what I meant. I just meant a general statement that our ordinance at no time nullifies any covenant. That's all.

Seth Thompson: Correct. The government can't nullify contracts, unless they're contracts...

Lynn Ekelund: So you're saying that's just superfluous, it's not necessary, because it's just understood by everybody but Ginny and I?

Seth Thompson: Honestly, that's a question we get all the time. That question comes up a lot in municipal views. I wish I could come up with a very good analogy. It's as if I were 16 years old and the government gave me a driver's license, so the government says, you can drive and my mother says, you're not driving my car tonight. So by the government giving me a driver's license, that doesn't mean I have carte blanche to drive my mom's car wherever I want to go.

Virginia Weeks: Well then can we say that business licenses are non-refundable?

Seth Thompson: Do people ask...?

Virginia Weeks: I don't want to go through this whole hoopla for somebody and give them a business license and then have them come back, I just realized my sub-division covenants won't let me. You should have done that first.

Seth Thompson: That's right. That's really the response to that. Because otherwise I think you open up the door where people say, look I'm moving. I've decided I'm not going to run my business or it turns out I didn't get enough customers, can I have my money back?

Robin Davis: It's the same thing as somebody applying for a variance application; getting denied and saying I want my \$400 back, because I got denied.

Lynn Ekelund: Where are we now?

Seth Thompson: So we talked about the floor plan. We did mention just leaving it at the number. If you have houses that are less than 1,000 square feet, they would have to be very

old, I imagine.

Robin Davis: Yes, there are a few, probably, but very, very rare. The minimum is 1,100 square feet for a dwelling unit.

Virginia Weeks: They could be apartments. There are apartments in Town.

Robin Davis: Yes, that are currently below that; but newer ones, no. There are some older ones that are probably 900 or 1,000 square feet...

Don Mazzeo: So if we keep the 49% in it, that's going to eliminate them obviously; or 500 square feet; either one's going to eliminate them. They won't be able to fulfill the commitment.

Seth Thompson: No workers and I was going to identify them as independent contractors, consultants, or employees...

Virginia Weeks: Independent contractors.

Seth Thompson: Yes, other than resident's at that residence.

Virginia Weeks: That's right.

Lynn Ekelund: Other than a resident of the dwelling.

Virginia Weeks: For example, if you have a real estate agent who's running their business out of their house, they can't have an assistant come in and help them. They can't have an independent contractor, because they're the broker and the agent would be... No.

Don Mazzeo: What if the individual is unrelated to that person, but they live in that residence?

Virginia Weeks: Then that's okay.

Lynn Ekelund: No person other than a resident.

Seth Thompson: They're going to be parked there anyway. No outside storage, no visible storage, no noise and this is where the rest of that we're stealing from Lewes; sorry, borrowing.

Don Mazzeo: Yes we want to use as many of those terms from Lewes...

Lynn Ekelund: I agree.

Seth Thompson: One client/customer/patron... those were my terms that I'm floating around. I'm going to see if your Code already defines them, at a time.

Virginia Weeks: What does Lewes do on that?

Seth Thompson: I'm sensing some second thoughts on that one?

Don Mazzeo: No, it's not a second thought, it's just that... I mean the applicant is going to walk in and talk to Robin and he's going to make a determination, based upon what that applicant is telling him and if the applicant says well I might have two occasionally; that's automatically going to... I shouldn't use the term automatically; that's going to take that application out of his hands for immediate approval and put it over to a body for review, because that applicant doesn't even know that he can only have one at a time. He might say, I might have a couple at a time; maybe two, three at most.

Seth Thompson: Well the situation I was considering; the one that would justify us bumping it up to two, is the professional that books an appointment every hour and the person shows up early.

Mark Quigley: Overlapping.

Don Mazzeo: Yes, overlapping.

Robin Davis: But you've only got one extra parking spot.

Don Mazzeo: Now you need another parking place.

Lynn Ekelund: The parking spots.

Robin Davis: Then you wouldn't fit in their...

Don Mazzeo: Then you wouldn't fit into the automatic.

Lynn Ekelund: I don't think, as Robin says, how many are you going to have? Well mostly one, but there's going to be some times two. Okay, you're out of this. Now if Robin explains, well there are different types of procedure; here's a procedure. But you can only have one. Now if they say, okay, yeah, I'm only going to have one; we're not going to be able to enforce this anyway; so why don't we stick to the one? And just explain to them, so that they understand up front that one is the number and if there are complaints, not that we're asking the neighbor's to be our eyes and our ears, and tattle on this one; but if there are complaints, that person has been on notice and he doesn't fit into this particular approval thing, or license or come back and tell us why.

Seth Thompson: That one is a little bit easier to prove from a Code Enforcement perspective; from a public street he can take a picture of two vehicles, as opposed to sitting there counting the patrons, throughout the day.

Virginia Weeks: Excuse me, Seth, should we just open up the Lewes one and see what we want put in our Ordinance and read through it?

Seth Thompson: I can tell you that that's what I was planning on doing.

Don Mazzeo: It reads almost like it should belong to Milton.

Linda Edelen: Yes.

Lynn Ekelund: Then let it.

Linda Edelen: Can we not just incorporate this and...

Seth Thompson: I think we can.

Virginia Weeks: Where do you want to start?

Don Mazzeo: How about 197-45.

Virginia Weeks: You go.

Don Mazzeo: Home-based businesses; definition; admitted home-based businesses; now we've actually incorporated in our discussions additional criteria that they would have to meet to be considered permitted home-based; which you would have to be padding into?

Seth Thompson: Right and the other element is that we have some defined terms that I'm going to want to make sure match up; that's why, for instance, they have daycare center, adult. That's a defined term in their code. I'll just have to make sure everything matches up.

Virginia Weeks: Are we all good with the definition?

Don Mazzeo: As a home-based? Any business, occupation, or activity undertaken for gain and conducted entirely within a dwelling unit by the resident's thereof; which is clearly incidental and secondary to the use of the structure for dwelling purposes. The home-based business shall be conducted entirely within either the dwelling or an accessory building, but not both.

Seth Thompson: And that hints at the issue that we talked about, in terms of whether...

Don Mazzeo: Shed.

Seth Thompson: That's right. So I take it that's what the Commission would like, where you can do it... That is interesting though, if you're the carpenter, you're the shelf maker, you have to keep your materials inside, if that's where you're going to cut them up.

Don Mazzeo: And you have to make it quiet, because on the next area it says, equipment, the operation of a home-based business, including equipment therein, shall not create vibrations, heat, glare, dust, odors, smoke and noise according to the regulations. So, yes, the guy could still be working in his shed, out back; all of his materials are outside, but it's

not purring, so he's going to be running this band saw and his overhead whatever is going on, but no one's going to hear this in the shed, right?

Mark Quigley: What about the guy that gets hired to cut down trees and he's going down the whole block, house after house; and he's outside making noise, cutting trees down and...

Don Mazzeo: Well, he's off-premise now, so he wouldn't be considered a home-base.

Seth Thompson: So the one element about looking at the accessory building is how it ties into the square footage issue. Again, if we're up to 49%, we're affecting very few properties with that. The real limitation is the 500 square feet, but I guess I'm just pointing that out where if you did, for some reason, fall under the percentage and they're using that out building, do you calculate it based on the residence, that's where they are not conducting the business? Or do you do it based on the square footage of both buildings?

Virginia Weeks: I think that it should be just on the house and it should be included in the 49% or 500 square feet.

Don Mazzeo: So if you have a 1,600 square foot house and that means they could have up to 799 square feet and if there's a shed in the back, of 699 square feet, they're okay. I'm just asking. I don't know.

Virginia Weeks: No, that's for storage only. They have to run their business in the house.

Don Mazzeo: Well we see the way this is defined, that's not what it says; you can operate inside the residence, or accessory building.

Lynn Ekelund: That's not what Lewes' wording is... Either.

Don Mazzeo: Which I think what we're saying, basically, is maybe we don't want to have accessory building usage, for the automatic permit.

Linda Edelen: For storage.

Virginia Weeks: Well maybe you just have to have storage in your house.

Don Mazzeo: Okay, here's the guy building shelves outside. He meets all the other dimensions/requirements and he's not loud. I don't know. I'm just throwing this out for questions. Do we count the accessory building for use?

Virginia Weeks: Why don't we put a limit on the size of the accessory building? You can't be any larger than 100 square feet; purely for storage.

Don Mazzeo: That's a 10X10'. You're not going to get a lot done in there. Which is probably the ideal. You don't want it to be big enough to have a two-car garage sitting in the back, because you're running something.

Lynn Ekelund: That's what I'm thinking.

Virginia Weeks: That would be a 10X10' shed.

Lynn Ekelund: A 10X10' shed, for storage.

Seth Thompson: Okay.

Don Mazzeo: We'll allow them to work in there, but as long as it doesn't exceed 10X10'. He can store in there, he can work in there, but it can't exceed 100 square feet.

Linda Edelen: And that's just the accessory building?

Don Mazzeo: That's the accessory building only now. You following?

Seth Thompson: Uh-huh.

Don Mazzeo: Robin had a question mark.

Robin Davis: I'm just trying to look at the contractor that is trying to fit a 12' board in a 10' shed; with his band saw.

Seth Thompson: Well it's 100 square feet; hopefully it's a very narrow building.

Don Mazzeo: 1' wide and 100 feet. You could throw a lot in there.

Robin Davis: Yes.

Don Mazzeo: But remember, the purpose of this is to give the permission, automatic if you will; if he wants to go over there and he needs the bigger building, then he'll have to come in and talk to a committee.

Seth Thompson: It's interesting too...

Virginia Weeks: Or move out of a residential neighborhood.

Don Mazzeo: Or move out of a residential area and move into the business district.

Lynn Ekelund: That would be preferable.

Don Mazzeo: There's all _____.

Seth Thompson: We keep talking about the size of the building; really it's the size of the use in the building, when really what your Code does with those limitations, is it's the total floor area; so again, let's face it, things are going to spill over, because the shed can be larger than 100 square feet; the person is just going to have to pile their stuff neatly, so it fits within the 100 square feet and I'm sure things are going to get messy and spread out.

Virginia Weeks: How about no accessory buildings? Just no accessory buildings.

Don Mazzeo: That would eliminate everything quickly, wouldn't it?

Seth Thompson: If you're worried about noise, too, accessory buildings...

Don Mazzeo: Typically will be where the noise is going to come from, the accessory building.

Linda Edelen: Which is why they're used so that they're not irritating everybody else in the house.

Mark Quigley: What does Lewes do for this?

Seth Thompson: They say you can either be in the house or in the accessory building; but you can't be in both.

Don Mazzeo: Or outside.

Mark Quigley: Oh, it can't be both?

Don Mazzeo: Either the dwelling or an accessory building.

Linda Edelen: That's interesting, that they chose to do that.

Mark Quigley: Why don't we put that in? Why don't we just put that in? Let them make the choice.

Don Mazzeo: This is true.

Virginia Weeks: Then are we going to allow everybody to build a 500 square foot accessory building?

Don Mazzeo: If it meets the criteria.

Mark Quigley: Yes.

Virginia Weeks: That later becomes an apartment? No. Can they have water and electricity in the accessory building?

Don Mazzeo: Why not?

Virginia Weeks: Because today, in garages, you're not permitted, are you?

Robin Davis: You can. Yes. You just can't have a cooking facility, which flips it over to a dwelling unit. You can't have two dwelling units on the property.

Virginia Weeks: But we all know that there are areas in town where accessory buildings have been converted to dwelling units, without coming back in for a rezoning or a variance.

Mark Quigley: And isn't that the Code Enforcement and the other mechanisms that we have in place.

Virginia Weeks: Yes, but Code Enforcement can't do it. We have a Town that doesn't spend

money.

Mark Quigley: Have you seen all the lawsuits over the years here? They spend money.

Seth Thompson: We haven't been filing those suits and I'm proud to say I took them from six to zero, so I think we've been doing okay on my watch.

Don Mazzeo: So the question is do we want to include, exclude or any others between dwelling and accessory and I think there's a point well taken; you can do it in the dwelling or in the accessory building. Now the accessory cannot be 49% of the size of the house.

Mark Quigley: Lewes has been pretty successful.

Don Mazzeo: Well they don't have percentages of the dimensions.

Mark Quigley: I understand that, but town-wise.

Don Mazzeo: It appears to be okay.

Mark Quigley: That's all we can go by and I'm...

Don Mazzeo: We're adding some additional things to it, to say that it cannot be certain... you can't have more than one in an hour, blah, blah, blah.

Mark Quigley: I get that, but I don't think we should really beat this to death. Let's start. They already have a pretty good model. We're looking to copy it, per se.

Don Mazzeo: We're doing a good job.

Mark Quigley: And then we'll tweak it along the way.

Don Mazzeo: And remember, this is still going to Council for their review. This is going to be a recommendation to Council. They can change it all they want after that.

Mark Quigley: If, at all. I hope we have 100 people that wants these accessory businesses.

Don Mazzeo: Oh everybody's going to want to have a 500 square foot building in their backyard.

Virginia Weeks: We'll get, when you write this all up, Seth or Robin, we'll see it before it goes to Council, right?

Seth Thompson: Yes, I can do it that way. Because it would be difficult for me to... I'm going to want you guys to give me the stamp of approval on a document, after this.

Don Mazzeo: That would work.

Virginia Weeks: Thank you.

Don Mazzeo: So let's keep it the way our friends in Lewes have put it to paper; either one, but not both.

Linda Edelen: I'm fine on that.

Mark Quigley: And if they want both, then they come in for...

Don Mazzeo: That's another whole story. We're looking at the...

Virginia Weeks: How large can the accessory building be, please?

Seth Thompson: How do you govern your accessory buildings?

Robin Davis: It's total coverage.

Seth Thompson: Total coverage of the lot?

Robin Davis: Yes. So you can't have one in R-1 more than 70% coverage. That's all your buildings.

Don Mazzeo: And your setbacks all have to be met. Okay. So there are controls already for that. I think, anyhow.

Virginia Weeks: Okay.

Don Mazzeo: Okay, going on Seth.

Seth Thompson: Again, I'm going to incorporate what we talked about, in terms of... I think we're pretty good on their Section B, in terms of what our examples are going to be and

what not... Since it's not an exclusive list, I don't think that needs to be a big debate, but I think C is important in that I can just go off of what they've done as far as... I guess you could have an all indoor kennel. I was trying to think how they would. Never mind. Anything on the automatically prohibited uses, that the Commission thinks wait a second; that doesn't fit our Town, or is there anything that you want to add to that permanently prohibited list?

Lynn Ekelund: I would like to add gun and weapon sales.

Seth Thompson: Okay. I'm wondering if I could... I'll probably end up using language from the State Criminal Code, Dangerous Weapon, that sort of thing. I just don't want to reinvent the definition.

Lynn Ekelund: Whatever.

Virginia Weeks: I would like to consider medical uses; because getting rid of medical waste now is a whole different thing than it used to be and I would like to see medical have to go for a special exception.

Seth Thompson: I guess the question then becomes the therapist. Is the therapist providing a medical service, do you think? Or no?

Lynn Ekelund: How about uses that require the handling of any hazardous or toxic materials, substances, or medical waste, as defined by Delaware or Federal Law.

Virginia Weeks: Fine.

Don Mazzeo: Where did you find that one?

Lynn Ekelund: I wrote it down. I have no idea. This is something that I just put together.

Robin Davis: There's something close to that in 4C of Lewes, use and/or storage of hazard materials in excessive quantities, otherwise permitted in a residential structures.

Don Mazzeo: I knew I read it someplace. It sounded good.

Robin Davis: It's 4C.

Virginia Weeks: I have 3, and 4A, B and C.

Lynn Ekelund: Wait a minute, I want to prohibit, I think Ginny does too, a home occupation that...

Don Mazzeo: Prohibited from home-based businesses. Period. Paragraph. That's it.

Virginia Weeks: That produce medical waste...

Lynn Ekelund: Or handle.

Virginia Weeks: I don't want somebody that has bloody gauze and needles and so on. Those have to be a special exception, so that the Town can make sure there is proper pick up of that and disposal of that.

Don Mazzeo: You want to remove them from the opportunity of being a home-based business; so it's not going to prohibit them, they're not going to be on the automatic list, we'll call it.

Virginia Weeks: Right.

Linda Edelen: Because they produce medical waste?

Virginia Weeks: Right.

Don Mazzeo: It will not automatically be permitted.

Lynn Ekelund: It cannot be automatically be permitted, they would have to come before a Board.

Don Mazzeo: ...a permitting process; application and review.

Linda Edelen: But the medical ones are already prohibited.

Virginia Weeks: That's outdated.

Linda Edelen: I'm sorry.

Virginia Weeks: That's outdated, because that was written before Land Use problems came into effect. Today a doctor can't throw his medical waste in with everybody else's.

Linda Edelen: But it's a prohibited use, so it's not going to be there.

Don Mazzeo: It's already listed under C.

Virginia Weeks: C, Prohibited Use. Thank you, I didn't see that. Great.

Lynn Ekelund: Cannot. That's all I wanted.

Seth Thompson: In your current Code, the automatically prohibited ones under your definition, says shall not include nursing homes, convalescent homes, rest homes, restaurant's, tea rooms, tourist homes... What is that, like a hostel?

Don Mazzeo: If we don't know what it is, we should revise that.

Linda Edelen: A tourist home, I thought meant like you rent a room out for a night. That's the old fashioned...

Seth Thompson: Because we do have a Bed & Breakfast, as a defined use.

Virginia Weeks: But they're not home-based.

Seth Thompson: None of those jump out at us as not being covered. If you find one that isn't there, add it. That's the gist of the thing. It can always be changed later and you did add the one that said the weapons and things?

Seth Thompson: Yes.

Virginia Weeks: Operating hours?

Seth Thompson: At one point we discussed that we liked the language of customer and client visits being limited; now we had discussed the 7 am to 5:30 pm and 8:30 to 3 on Saturday and no Sunday hours.

Don Mazzeo: I think we're going to mirror the operational building hours for Town.

Linda Edelen: The Lewes Permitted Uses Instructional Services talks about not to exceed three students at a time. That is B2.

Lynn Ekelund: I think that's too many.

Don Mazzeo: I do also.

Virginia Weeks: One student. If you want more than one student, you go for a special use.

Robin Davis: We currently have 1 to 2; is what we currently have. It says 1 or 2 pupils at a time.

Linda Edelen: One or two?

Robin Davis: That's what ours says right now. Private instructions limited to 1 or 2 pupils at a time.

Linda Edelen: Okay.

Don Mazzeo: So if we say not to exceed two.

Robin Davis: But we went back to the same thing about the parking spots; so if you only have one parking spot, we should only be allowed one student; unless you want to go and ask for an exception.

Don Mazzeo: I think that's relatively fair to... again, we're going back to the piano teacher; not likely to have two there at one time, anyway, unless they happen to have four pianos and a tuba...

Linda Edelen: Well the dance teacher might. She's going to have multiples.

Don Mazzeo: So we're saying, 1 student for the automatic approvals, is what we're saying here remember. This is strictly for the automatic, allowed, permissible...

Seth Thompson: In terms of looking at Lewes' exterior environment, frankly I like what

we've done with parking better, in the sense that I don't like the language not generate volumes of vehicular pedestrian traffic; that to me is very subjective.

Don Mazzeo: It is.

Virginia Weeks: I agree.

Don Mazzeo: I think what we've got is much better.

Seth Thompson: The alteration, again this is... well the signs, I guess. I'll take a look at our sign ordinance to see what it says about home occupations, but you indicated that for the automatic's they shouldn't have a sign.

Don Mazzeo: There should not be any signage for the automatic's. Again, if they want signage, they've got to come with the normal process. I know Robin's not crazy about that idea, by the look on his face. But that's one of the criteria that's going to be presented to him. You can't hang a shingle out there.

Virginia Weeks: I would think that the only people that would need a sign, are people who are looking for passer-by, foot traffic.

Don Mazzeo: Typically, these people are not going to be looking for passer-by. They're in contact with their client base on a 1 to 1 basis.

Seth Thompson: Do we see any need for the no alteration made to the external form or appearance of the building for purposes of any occupation? I guess I'm trying to think, other than a sign, what somebody would do to the outside of a building to indicate they had a home occupation?

Virginia Weeks: Could that include building an addition? I have no objections to somebody putting an addition on their house.

Mark Quigley: Or a ramp, if somebody had physical therapy and they were a trainer; they put a ramp up to the door... like handicapped... but that would have to fall under something else.

Don Mazzeo: Or exterior entranceway, that is not normal to the front door, let's say... to the extension perhaps, around the back or just another doorway that used to be a window. I'm just talking... They would come in for a building permit, theoretically.

Seth Thompson: That's a good point. I don't know if people necessarily, it's up to the Commission, if that really poses some issue.

Linda Edelen: I'm sorry, but I've got to give you one example. Mailbox that was a dentist's office home occupation and it was like a big tooth and a brush and it was huge and I don't know, a big lawsuit. Now that would have maybe created a problem if there was no alteration.

Seth Thompson: Maybe the mailbox was attached to the house, but here it's just the external residential building.

Linda Edelen: This was on the side of the road, just... It was like a sculpture.

Virginia Weeks: Under C, it says no evidence of home occupation shall be visible from off the lot, where it is conducted.

Don Mazzeo: Right underneath that one, so that would eliminate it.

Linda Edelen: No toothbrushes.

Virginia Weeks: Including artwork, Robin. Including artwork. Anybody wants to paint a beautiful mural on the side of their house, that's prohibited, please.

Don Mazzeo: Why? It's their private property, they can do what they want.

Virginia Weeks: Not if it shows, it advertises the home occupation.

Don Mazzeo: Okay. I'm Devil's Advocate here. The person wants to have a beautiful mural

put on there of the New York City skyline...

Virginia Weeks: That's not what we're talking about.

Don Mazzeo: Well wait a minute. You just said no murals.

Virginia Weeks: That shows the home occupation. For example, a dentist cannot paint a beautiful mural of a dentist working without any lettering, because under our Ordinances if there's no lettering, it's not a sign.

Don Mazzeo: Right, it's a picture.

Lynn Ekelund: Prohibit exterior physical changes to the home for the purposes of conducting business.

Don Mazzeo: Well, again, you could put a ramp in because you're a therapist; you can put a new doorway so your client's can come to the back door, while you never had a back door before; you've changed it.

Virginia Weeks: But you could also have somebody who puts a piece of artwork depicting a dentist in their front yard.

Linda Edelen: Or stained glass...

Seth Thompson: Of a tooth?

Lynn Ekelund: Or dogs in a bathtub.

Virginia Weeks: Right.

Don Mazzeo: Who would do that?

Virginia Weeks: And that is precisely why I'm asking for the artwork.

Don Mazzeo: Alright, so no alteration shall be made to either the external structure form, to include any paintings representing the business.

Virginia Weeks: No, no. Under C, no evidence of a home occupation shall be visible from off the lot where it is conducted, including artwork, or however you want to handle that.

Don Mazzeo: That's going to be a trip.

Seth Thompson: That will be interesting, but I think we can do that.

Don Mazzeo: You've got the gist of what we're looking for?

Virginia Weeks: Do you understand the need?

Seth Thompson: I do. The other one's fine, we've already discussed that one really, the displaying of goods.

Don Mazzeo: There aren't any.

Seth Thompson: Right. The commercial vehicle, they're referencing obviously something that they have in a different part of their Zoning Code. I don't know, certain Towns do regulate parking Joe's Plumbing in the driveway. Do you guys do that? I don't...

Robin Davis: Yes. We have over 10,000 pounds for a commercial vehicles are not allowed...

Don Mazzeo: What if you have a small van and you're a room painter and you park your truck in your driveway and it says Joe's Painting and Papering?

Robin Davis: I think they kind of put a big limit on that. They didn't want the bigger box trucks and things like that in there, but didn't want to exclude the plumbing service guy that works for Harry Caswell or so, that brings a van home. But he couldn't bring home an over 10,000 pound box truck, whether it was his or not; it referenced all commercial vehicles.

Don Mazzeo: But it has to be a commercial vehicle and this is stupid, but what if you bought a 9,000 pound van and it's yours. It's not commercial.

Virginia Weeks: Those are allowed. There's a house on Union Street and that has bunches of them in it's backyard.

Don Mazzeo: That's the backyard. I don't care about the backyard.

Seth Thompson: What I'll do is I'll reference the other section.

Robin Davis: I think it's just commercial type vehicles.

Don Mazzeo: Go back to parking regulations.

Seth Thompson: In terms of the next one, this is the question, I guess. They're saying that basically you can use the accessory building for storage.

Don Mazzeo: Equipment or materials used may be stored outside the _____, in an enclosed... Yes, we agree.

Virginia Weeks: I would delete that.

Don Mazzeo: I don't know why not. Why?

Virginia Weeks: How big an accessory building structure?

Don Mazzeo: Again, it's going to be within the confines of what the Code is allowing a person to build, even if you don't have a business and you decide to put up a 500 square foot accessory building in your backyard. If it meets the criteria that says you're within setbacks and lot coverage, you can do it, so why couldn't we allow this to happen for a home business?

Linda Edelen: It's just for storage.

Don Mazzeo: It's for storage or use... or the house. It's one or the other.

Linda Edelen: Yes.

Robin Davis: I was going to say, does that contradict if I have a business in my home, then I'm allowed by F to store outside; but my home base is inside, but then I'll just store outside, in an enclosed accessory, so then that adds... Does that negate the or on the first part?

Linda Edelen: No, because that's just use, not storage.

Seth Thompson: They're saying that the business is being conducted, so basically they're setting aside storage from actively conducting the business. I think that's how they've set it up.

Don Mazzeo: Ginny, as an example you put up a one-car, stand alone garage in your backyard, because you don't have one right now and the guy decides to store his plumbing parts in there. Once it's closed...

Virginia Weeks: I have no problem with that, but earlier in the Ordinance we're allowing them to conduct business in the accessory...

Don Mazzeo: We are. Or his home.

Virginia Weeks: Right, so if we're allowing... then if he's allowed to conduct business in the accessory building, is he allowed 500 feet in his house and another where the accessory building is?

Don Mazzeo: No. No he can't, because it says not both.

Robin Davis: But we've eliminated the square footage. We're not using square footage, except for what is allowed in the Ordinance for 70% coverage.

Virginia Weeks: You're eliminating the square footage of the accessory building.

Seth Thompson: I understand your point, Ginny. You're saying that somebody can operate the business within the home for 500 square feet and then they can store 500 square feet worth of stuff in the accessory building.

Virginia Weeks: That's fine.

Seth Thompson: Okay, as long as that's okay.

Virginia Weeks: But if we do the Ordinance the way we say, okay it could be one, but not both. We're good.

Don Mazzeo: But not both. That was it. I know where you're heading, well I'm working in

here and I have this one over here and by the way I'm going to do the work out there. No.

Virginia Weeks: No half and half for anything.

Don Mazzeo: No. It's an either/or. We were back into the employee's again?

Seth Thompson: I think we actually made some improvements in terms of avoiding the situation where I 1099'd that guy. He's not an employee. We're going to use the vibration language. Did you want to include noise in that?

Virginia Weeks: Yes.

Seth Thompson: So include it in that list, as opposed to just referring to our noise ordinance, which uses the decibel measurement, but it's fairly substantial, it's like 65 DB.

Don Mazzeo: It's substantial.

Virginia Weeks: Do you want to sit in your living room and listen to 65 DB?

Seth Thompson: No, that's my point.

Don Mazzeo: No he doesn't. And I agree there.

Virginia Weeks: So I would just add noise to A and delete B.

Seth Thompson: Great.

Robin Davis: The concern that I have is, again, the subjective of noise.

Don Mazzeo: It's subjective.

Robin Davis: I'm going to say...

Virginia Weeks: Sound. Any sound. No sound.

Mark Quigley: Some churches bells come in at 75 to 85 DB.

Virginia Weeks: What we're talking about Mark, is if you live in a townhouse and the woman next door has a piano next to the common wall, and there's some kid plunking out Twinkle Twinkle Little Star all day, that sound should not be in your house.

Don Mazzeo: Or if you're walking by...

Mark Quigley: It's just not a perfect world. I understand we're trying to get this as close and tight as possible...

Virginia Weeks: But these people are not... How can I put this? These people are not entitled to a business, because they're doing it in a residential area. This is first and foremost a residentially zoned area and that's what you have to protect.

Seth Thompson: So Mark, to your point, let's say it's something that technically you can hear it, but the neighbor doesn't care. They'll file their application, the neighbor gets a certified mailing notice and the neighbor doesn't show up and...

Mark Quigley: No harm, no foul.

Seth Thompson: I could see that as being the way that one plays out.

Mark Quigley: Sure. If they're hearing somebody playing the piano, they're hearing a lot of other things, besides, on the every day. So if somebody does want to have a business and they do not show up, let them...

Virginia Weeks: But we're talking right now about businesses that just slide through.

Don Mazzeo: We're allowing it to happen.

Seth Thompson: Right, that's why we're putting noise in here and I think we're addressing Mark's concern, where what if it's a relatively minor noise. Well that's fine, they're just going to have to go through the process.

Don Mazzeo: It has to go through process. Exactly. So to your point, noise. Can't have any to slide through on the automatic permitted.

Seth Thompson: Okay and then the final one, use and/or store hazardous materials in excessive quantities, otherwise permitted in residential... Wow, they allow hazardous

materials to be stored in residential structures? Although I guess hazardous materials is...

Don Mazzeo: Well sure. Bleach is a hazardous material. He has a pool in his backyard. Within the normal use of a residential area. I don't have an issue with that.

Virginia Weeks: Well, if somebody is an artist, or whatever and does welding and has large tanks of gas or a painter storing excess paint and half-gallons he doesn't finish.

Mark Quigley: Actually, you bring up welding. There are certain restrictions on welding equipment already. I know, at least at the County level, an auto repair shop just cannot go out and bring in a welding torch to cut out mufflers. There's a whole process and procedure that goes along with that, before they can even do that.

Don Mazzeo: But that's for a "business" that's looking to work in a commercial zone. We're talking about the guy that goes down and gets the little tanks and he wants to etch in his backyard or his shed, or whatever, down in his basement; what do we do to try and prevent that from happening?

Virginia Weeks: I have no problem with that.

Don Mazzeo: But that's one with a little tank, but what if he stores 30 of them? Then it goes back to hazardous materials in excess of what we just read.

Seth Thompson: Right. I guess the question is whether we regulate that under our current code.

Don Mazzeo: I don't think we do.

Virginia Weeks: Are you going to allow somebody who's running a painting business out of his house to store 50, 60 cans of paint?

Mark Quigley: House painting, you mean?

Virginia Weeks: Yes.

Mark Quigley: When you said painting, I was thinking of when Abraxus had his business down here...

Virginia Weeks: No, no, no. I'm talking about house painting.

Don Mazzeo: Okay, well then...

Virginia Weeks: Only because it could be a fire hazard.

Don Mazzeo: I think this one does cover it right here.

Virginia Weeks: And they don't have sprinklers and they don't have this in the house.

Don Mazzeo: Used to store hazardous materials. Paint is considered a hazardous material; even the low VOC's and all that kind of stuff. That would be certainly in excess.

Virginia Weeks: Right.

Don Mazzeo: That would not qualify for an automatic.

Virginia Weeks: That's why I'm saying we shouldn't change this, at all.

Don Mazzeo: No, no. That should be in there.

Seth Thompson: My only question is...

Don Mazzeo: How do you define it?

Seth Thompson: Right, because they're saying otherwise permitted in _____ residential structures, so they must have some...

Don Mazzeo: They must have some... Okay, but we don't.

Virginia Weeks: You send or store hazardous materials in excess of the minimal quantities, otherwise permitted, otherwise used for residential purposes.

Don Mazzeo: But there's no limit set in residential areas. What is that number? One gallon? I tell you what, I've got probably seven half-gallons sitting in my basement right now of paint. Probably everybody does.

Linda Edelen: Me too.

Virginia Weeks: That doesn't worry me, 7-1/2 gallons...

Robin Davis: Well the thing is, we might have to look further into Lewes' ordinances and say what it is.

Don Mazzeo: Or don't reference it, in that fashion. Because if one of the questions on the application is do you store... what type of storage of hazardous materials do you have? Or do you foresee? And if it says, yes, then you've got to go over here and go through the process. We don't put a limit, we just say you do or you don't and if it's a painting business, I would think that whoever is looking at that application would say, sorry I know you have more than five gallons of paint in your house; you probably have 30 gallons in your truck.

Robin Davis: That's the thing. If I store seven gallons in my house anyway...

Don Mazzeo: You do.

Robin Davis: And now as a business, I might say I've got three gallons of paint in there, I'm going to have to go to Special Permitted Use; residentially I'm allowed to have ten.

Don Mazzeo: You can keep as many as you want, because we don't control it.

Robin Davis: I think that's kind of backwards, but...

Linda Edelen: They don't store a lot of paint. They buy it. They order it, they go pick it up in the morning, they bring it over to your house and paint.

Mark Quigley: Actually pesticides fall under the same ruling that you just brought up, that oxymoron; that's right, if you're a certified pest applicator...

Don Mazzeo: Two gallons, maximum. But at your house, 5,000 if you want them.

Mark Quigley: Right, you can have as many as you want.

Don Mazzeo: As long as you can pay for them.

Mark Quigley: It's the same problem. So maybe it should be no hazardous materials; the guy could still be a painter, but no product in your house. Again, this is one of those things I think where we have to weigh it. He may have 50 gallons in his truck.

Virginia Weeks: And if he wants to store hazardous waste, then he goes for a Special Permitted Use.

Don Mazzeo: He goes through the process. That's the worst thing.

Mark Quigley: I think that makes sense.

Don Mazzeo: Now, shall we define hazardous materials?

Linda Edelen: We don't have a definition in our Code, do we?

Seth Thompson: I'm looking.

Linda Edelen: I just looked. I didn't see it.

Mark Quigley: What about under the State?

Linda Edelen: How about checking Lewes? Maybe they do have a definition.

Seth Thompson: That's what I'll do. There are definitely Federal laws that define hazardous materials.

Mark Quigley: Right, with the EPA. Even in a dumpster, you can't throw a can of paint in a dumpster.

Don Mazzeo: Legally.

Mark Quigley: Correct.

Seth Thompson: Actually most mortgages reference those Federal laws. I think most mortgages you're not supposed to have a can of paint in your house.

Linda Edelen: But, you can spread out a whole lot of newspaper and spread the paint all over the newspaper and let it dry...

Virginia Weeks: You can open the can and let it dry out.

Linda Edelen: And then put it in the dumpster.

Virginia Weeks: How about also use and store hazardous materials on the premises, so it's not just sounding like you can't do it in the house?

Don Mazzeo: Yes, because they're also looking at the accessory building.

Virginia Weeks: You can't store it in the accessory building.

Mark Quigley: Related to the business.

Don Mazzeo: I think what we're trying to say here is that you mentioned it earlier Mark, we're not going to get every possible condition covered, but I think we've narrowed it down significantly to allow a lot of businesses to go through the process, without paying an awful lot. They're still going to pay the \$100 fee, is that correct Robin; regardless of whether they be permitted or not?

Robin Davis: No, currently Permitted Uses do not go through a cost.

Don Mazzeo: There's no cost to apply?

Robin Davis: Correct.

Don Mazzeo: Okay and as soon as it's deemed that it is not going to be a permitted use, then you've got to go through the process and then a fee has to be involved.

Robin Davis: Correct. If it falls under a Special Permitted Use it's \$100 and the process; and if it's Conditional Use, it's \$400 and the process.

Don Mazzeo: And to entertain your question, Mark, we already did speak about the fact that we feel that the cost/fees are high, but they only represent what is necessary for the Town to process the application for professional services. This other one is going to be a no fee.

Mark Quigley: I get and I like that, but I'm still... If somebody is going to spend about \$1,000 and the Town fee is \$100, why don't we just make it like a non-fee, a \$10 fee; this way it's almost about 10% less out of the overall cost, that the Town is still trying to... an olive branch to be friendly to these other businesses that are going to go through the time and the expense to...

Virginia Weeks: We don't want to be friendly to these businesses, because they are exceptions in the residential use and they're for gain.

Mark Quigley: Right. If we're here to eliminate business and discriminate against them, well then we don't want to say we don't want them, I think.

Virginia Weeks: No. Right, but we don't want residential areas overcome with business, either.

Mark Quigley: So I think the reduction of \$90, which could be 10% of the overall cost, I think it's reasonable. If they're still looking to pony up \$800, what do you think the costs are going to come out to?

Robin Davis: It could go roughly off the top of my head, figure it would be \$800 to about \$1,000.

Mark Quigley: Okay. If somebody's going to do that, let's cut them a break on the fee; that's a \$10 application. Here are the rules. Why don't we give them all the rules up front?

Don Mazzeo: We do.

Mark Quigley: Okay.

Virginia Weeks: And we don't have anything to do with fees. We can sit here and talk all day, it's the Council that does it.

Seth Thompson: You could make the recommendation.

Don Mazzeo: We can make the recommendation to lower the fee. Is the \$100 current fee for

administrative costs, or is it...

Seth Thompson: It's to compensate the Town for the Town staff time.

Don Mazzeo: Town staff's... and that's really what it's saying. The way it's supposed to work, it's not supposed to be a generator of income. It's not supposed to be.

Mark Quigley: I understand that. The Town employee's and we enjoy them, are already getting paid by our tax dollars to facilitate all this for us. So hitting people with additional fees, again, it's 10%. That's my opinion.

Virginia Weeks: The Town employee's are being paid by the Town Revenue, which includes these fees. Not by our taxes.

Don Mazzeo: Which includes the taxes.

Virginia Weeks: Our taxes don't even support the Police Department.

Mark Quigley: Alright, if you're going to bring that up, then what are the total amount of fees that the Town brings in? I hate to even go to this level, but what are the total amount of fees the Town brings in on applications; not anything else, but just applications? Does anybody have that answer?

Seth Thompson: It should be in the Town budget.

Robin Davis: Not off the top of my head, no. No.

Don Mazzeo: Do you want to make a motion that part of our recommendation tonight is that we would reduce the fee to a number and if you choose \$10 and that would be the motion, we vote on it? This is a meeting this evening.

Mark Quigley: Again, I think the idea is if people are going to have home businesses, we want them to be successful, we want people to be here, but we also want them to be very respectful of their neighbor's and I think there's enough ordinances and we're going over this to do that. We want people to be successful. If somebody's going to pony up \$1,000, it's a _____.

Virginia Weeks: It's a tax write-off.

Don Mazzeo: It's a business expense.

Robin Davis: Did you just say that instead of putting a figure in, just say look at maybe reducing it, just as the overall and let the Council... That way we go back to the same thing of them saying if you put \$10 or \$15 or \$20, if Council has to say no, we want to do it at \$50, then they have to go to a four-fifths vote and all that stuff. Let them... One of your recommendations may be look at the fees.

Don Mazzeo: Look at a reduction of fees.

Robin Davis: Correct.

Don Mazzeo: Are you in agreement?

Virginia Weeks: Application fee, right?

Don Mazzeo: Application fee. The rest of it is independent.

Linda Edelen: Well I'm not sure I would vote for a reduction, but I certainly would like the Council to review it; give it some consideration.

Don Mazzeo: Yes, that's the way I think would be the recommendation. What if they say, maybe it should be \$200?

Mark Quigley: Then that's their prerogative.

Don Mazzeo: No, let's put it in as a recommendation for a reduction, at a level that they feel comfortable...

Robin Davis: An adjustment.

Don Mazzeo: But that gives them the opportunity to make it \$200.

Seth Thompson: I wrote a recommendation to review for potential reduction in application fees.

Virginia Weeks: There you go. Thank you.

Mark Quigley: Good enough.

Don Mazzeo: Yes.

Seth Thompson: And the last thing, signs. Robin was absolutely right. In our sign ordinance, under our Zoning Code, it says that home occupations get... actually it says signs.

Don Mazzeo: It says signs, 2X3' or something?

Seth Thompson: It says 4-1/2 square feet in size, although it's interesting that it says signs, plural. That's odd. But I guess you wouldn't have make two very tiny signs; you're going to use 4-1/2 square feet on one sign.

Don Mazzeo: Well you could do two little ones.

Linda Edelen: What is 4-1/2 square feet?

Mark Quigley: Well 2X2' is 4.

Don Mazzeo: 2X2' is 4. It's 2-1/8 X 2-1/8.

Virginia Weeks: I have a question. When people in your neighborhoods open up businesses, do you want all those signs in your residential neighborhood?

Linda Edelen: Yes, I know.

Mark Quigley: It wouldn't bother me. Personally, it wouldn't bother me.

Don Mazzeo: I think 4 square feet is too big.

Mark Quigley: If somebody put a shingle out there and it not like our association, it has to be like architectural shingle for somebody to...

Virginia Weeks: I'll rephrase my question. Do you want to drive down Union and Federal Street and have it look like Route 9 in Georgetown?

Mark Quigley: It could never look like Route 9, because it's 2X2.

Virginia Weeks: Why not?

Mark Quigley: I have a business out on Route 9...

Virginia Weeks: Or 3X1.

Mark Quigley: Yes. It's still America. If that's what somebody wants, to put it out, why not?

Virginia Weeks: Because it's a residential district.

Mark Quigley: Okay, but we're also saying that they can open a business.

Virginia Weeks: Right, with certain... as a Permitted Use they can, if they fulfill these obligations and I think if it's a Permitted Use, there should be no sign. If you want a sign, you get a special exception.

Don Mazzeo: I agree with that.

Lynn Ekelund: I do too.

Don Mazzeo: I don't have a problem with putting signs out, but they've got to come and have it reviewed.

Seth Thompson: Okay, so no signs, is the automatic.

Don Mazzeo: No signs on the Permitted Use.

Mark Quigley: I think wasn't that settled though, earlier?

Seth Thompson: We had mentioned that. The only reason I reference it now is that it's currently in the code.

Virginia Weeks: The Lewes ordinance doesn't allow...

Don Mazzeo: Signs anyplace.

Robin Davis: Yes, it does. Signs no greater than 3 square feet in an area, a licensed home occupation, professional office, Bed & Breakfast shall be permitted only one, one identification sign that is free standing, projecting or fixed flat against the residence.

Virginia Weeks: And unlit.

Don Mazzeo: Well it does state on there it can be lit from the front and it can not be flashing on the outside. In other words, it's got to be a spotlight on that sign and it can't be on both sides.

Seth Thompson: If we're doing business hours ending at 5:30...

Don Mazzeo: 5:30 and at the end of November it's dark.

Mark Quigley: It's still 4 or 5 months.

Virginia Weeks: The question is, can they leave the sign lit all night? They're not conducting business, but can they leave the sign on all night?

Don Mazzeo: First, we're not even down that part yet. We're still on the permitted sign.

Robin Davis: Where are we looking at that says it can be lit?

Don Mazzeo: I read it somewhere in here.

Robin Davis: In Lewes?

Don Mazzeo: It might be.

Robin Davis: Because ours says the sign may not be illuminated. Lewes doesn't say at all.

Don Mazzeo: Well you know what, we're in a position right now of making recommendations for Council, so we're going to say if it's a Permitted Use, automatic, if you will; no signs and if you want a sign, you come to a Commission for review and at that point, whatever is on the books for signs, that's what we would use.

Robin Davis: But then that would kick the whole thing to a public hearing, because they want to have a sign.

Seth Thompson: Although, honestly, the businesses that want to have a sign...

Don Mazzeo: They should be in the Business District.

Seth Thompson: It's probably the type of business that is going to go to that, anyway. Do you know what I mean?

Don Mazzeo: They're going to go through the whole normal routine. Exactly. The home businesses are...

Virginia Weeks: The exterior environment in Lewes says no evidence of any home occupation shall be visible from off the lot where it is conducted.

Seth Thompson: For their signs, it says signs, See Article 8; so they do allow it. Signs for home-based businesses and Beds & Breakfasts. Alright, I think I know what to do here. I hope so. You guys will let me know.

Don Mazzeo: Okay, so Seth you're charged with putting all this together; sending out a draft to Commission and to Robin, of course; and when you get that, we'll look it over and if anybody has any questions, comments, additions, deletions, send it back to Seth to incorporate. I don't know how you... Which is best for you to have six input, or one input? I'm not going to be around for a lot in the near future.

Lynn Ekelund: You can send them to me, Lynn Ekelund. I'm fine. If that's how you'd want it Seth, I can be the clearinghouse and get them to you or we could all send them to you.

Seth Thompson: There are certain bodies that I have to worry about abusing that. I don't really worry about that with you guys. In terms of policy decisions, you guys need to be together to discuss this. If you have a legal question or something that you thinks reads ambiguously, just let me know, because I view that as a legal issue and I can just address

that. Hopefully I'll get the draft to you quickly enough that we can do that. Get those ironed out so if there are any questions...

Don Mazzeo: If you would have it for next Tuesday's meeting, that would work.

Seth Thompson: I think it's too late to put that on the agenda, fortunately.

Mark Quigley: We need to change that.

Seth Thompson: Today's Wednesday, right?

Don Mazzeo: I've lost track. Just for the record, Mark, are you going to be able to attend Tuesday's meeting next week?

Mark Quigley: Yes.

Don Mazzeo: That's our regular monthly meeting. Then we do have a quorum.

Mark Quigley: Yes, I will be there.

Don Mazzeo: We have a quorum. We're good.

Virginia Weeks: Is somebody going to check with Tim. He hasn't been to a meeting, in a while?

Robin Davis: Yes.

Lynn Ekelund: I'll call him.

Robin Davis: Do we want this put on a separate agenda to come back with this, or do we want to put this on a... Do you think there's going to be a lot more discussion about this, to put it on February regular meeting?

Don Mazzeo: I think it would fit on the February meeting, as long as Seth has the time and we've all had the opportunity to review it; it's just a matter of okay, is this all the points and parts and pieces. If it is, then we just give the okay to forward it to Council.

Robin Davis: I was just concerned, if it's something...

Virginia Weeks: I believe we're limited to 45 days to getting our recommendation back?

Seth Thompson: The way it works is Council can act without your recommendation, if you don't report to them. The odds of that happening in this case, are very slim...

Don Mazzeo: We can make it very simple, much like we have done in the past, was that we are in the process of making a written recommendation and our 45 days will start when you get it.

Seth Thompson: Right. If it were an ordinance that was already in draft form, but that's not our case here. This was more of a general assignment, which I think we had a pretty productive discussion.

Don Mazzeo: I think it was productive. Anybody else have an issue that it wasn't?

8. Adjournment

Don Mazzeo: Do I have a motion to adjourn?

Lynn Ekelund: So moved.

Virginia Weeks: Second.

Don Mazzeo: All in favor say aye. Opposed. Motion carried. Meeting adjourned at 8:29 p.m.